

A
PERSWASIVE
TO THE
UNION

Now on Foot,

By Arguments from *Nature, Reason,*
and mutual *Advantage.*

In Two Parts.

With a Method propos'd for the more
easy effecting it, and answering the principal
Objections against it.

L O N D O N:

Printed and Sold by the Booksellers of *London*
and *Westminster*, 1706.

PERMANENT

SECRET

RECEIVED

1004 10 1701

Now or never

0 10 20 30 40 50 60 70 80 90 100

[illegible][illegible]

for society that is experienced by

NAME OF THE DONOR

100

think that we need to consider the possibility of a

1940

There was (at least) one other person who was in the room at the time of the shooting.

100-443888-100

DEPARTMENT OF THE ARMY

The Union of the Kingdoms
Scripture tell us that we can be as much as
which the Ancient Kings have made of God.

A
PERSWASIVE
TO THE
UNION

Now on foot, &c.

INTRODUCTION.

I TAKE it to be a received Maxime, among Mankind, That *MAN* by his Original Make and Constitution, was so fitted for Society, that no Depravation of his Nature or his Manners can be able to blot out this Impression, and in no condition *it is good for Man to be alone.* Its no wonder then we think that in his first formation, Man by his Creator was made a sociable Creature; seeing there was, (if I may say so) a consociation of the Divinity to make him such: For so the holy

B Scrip.

Scripture tell us, *Gen. 1. Come let us make Man*, which the Ancient *Hebrews* interpret, of God's going up to seek the Judgment of his own House, that is, to consult not with Angels (as the same *Jewish* Doctors* foolishly dreamt) but with the other Persons of the blessed Trinity, † says a learned Critick. As this sociable Nature with which he was first endowed led him to propagate his Kind that he might have Creatures of the same very Species with himself to consult and advise with, for their general Security, whereby he plainly resembled the Author of his Being, after whose Image he was made, and had all the reason in the World to trace the divine Nature as far as he was able, that so he might in some measure answer the Laws of his Creation, so it had this good effect, that no sooner one multiplied into many, then they began to Form themselves into Societies less or more as occasion offered and necessity required; which being one essential Ingredient in their Natures, and cœgenial with them, made poor Man, before they entred into such Colonies and Societies, appear no better than the State he was born in, naked, defenceless, and unarmed, rather as a Vagabond on the Earth than the Lord thereof; lurking like the brute Beasts in Dens, Caves, and in the Cliffs of Rocks; having neither sufficient Strength nor Weapons to guard himself against the rigidity of the cold Seasons and the voraciousness of the fiercer Animals that run to and fro in the Night Season, seeking after their Prey: Nay, the wisest and most provident of Men then, had but surry Huts and Croats to lodge in to guard against all these inconveniencies.

* Abe-
nezra.
† As Dru-
sius.

I.
n,
s
yn
as
ut
y,
a-
m
a-
elf
ral
he
he
ld
le,
the
ef-
ny,
ci-
ffi-
re-
m,
uch
han
es,
the
the
ifts
gth
igi-
s of
the
ay,
en,
a to
In

Part I. of Scotland and England.

3

In imitation of these small Huts, time and experience taught them to build Houses and Gardens, and that nigh to each other; the better to Entertain and Cultivate their designed Society: That by this mutual intercourse and frequent Communication they might the more easily (as their needs and exigencies required,) assist each other for their own ease and safety, the Support of their Families, and the preservation of their Colonies. The bounty and Wisdom of God futing and attempering things so, as to let us see that by such mutual Aids the Strong doth depend upon the Weak as much as the Weak does on the Strong, the Rich and Wise on the Poor and Ignorant as these do on them; Nay the Scepter rests on the Spade and Mattock, and the Throne it self on the Plough.

Thus the great Animal of the *Common-Wealth*, in which is but a Combination of many Colonies and Societies linkt together; has as much consent of Parts, as much dependance of them on each other, as any living Creature has; which is excellently set forth by the great Doctor of the *Gentiles* in his first Epistle to the *Corinthians*; the Eye cannot say unto the Hand I have no need of thee; nor again the Head to the Feet, I have no need of you; for if the whole Body were one Eye (says he in the preceeding verses) where were the Hearing? If the whole were Hearing, where were the Smelling? But now hath God set the Members every one of them in the Body, as it hath pleased him. God in his Wisdom has so tempered and adjusted the Parts together, that the members as they have equal use, so they should have the same equal care of one another since that the general
B 2 preservation

preservation of the Society and Communion doth depend upon it.

* *Unium
cunctis ve-
luti patri-
montium, as
Justin hath
it speaking
of the Abo-
rigines,
Lib. 43.
cap. 1.*

* *Cicer.
Officior 1.
Principium
& semina-
rium Re-
publicæ.*

But all this time we are to consider these separate and dispersed Huts they first had; but as one Family, consisting of near Relations one to another, and having all things common among them: The World being (in their opinion) but one great Community, * upon which every Man as he found living and subsistence in it, so he thought he had good right to it. But the constant bent that was in Man still to propagate his Kind, made not only these nearer and stricter Societies of Blood Relations, separate a little farther from one another, but also obliged them to build more Houses which when again seated together in one place seemed to have the true beginnings of a Town or City; and to be the Nursery and seed Plot of a future *Common-Wealth* as the *Roman* Orator elegantly expresses it. * This propinquity of Blood and near Relation they stood in unto each other as it could not but strictly tye them, and their Posterity to cultivate and preserve what was already begun among them; so to enlarge their Houses and Fortunes all they could, till at length they came to rear up large Buildings, and to have regular Towns, Villages and Castles to dwell in.

But they no sooner arrived at this height than the same Mother Principle of necessity did oblige them to provide for its Security, and make Laws and Orders for regulating all Persons, and Matters therein: For pray, what is Society but the delivering up the Right of Revenge (that before was confined to the Fathers of Families) to the arbitration of a Government? which can admit of no delays there being

Part I. of Scotland and England.

5

being an absolute necessity for having an Umpire even in private Quarrels. when e're they happen, as could not well miss to have been upon their first Settlement; otherwise partiality in the Administrators might cause them to run to too great a height, which in a little time might end in its Dissolution and ruin. Yet it's according to the Rules already agreed and condescended upon that Men must govern, for it is not sutable to the nature of Man to be otherwise govern'd, and the difference that Nature has made between Man and Man, pleads much for this: For as some Men excel others so far as to be naturally obeyed and rever'd, so others are naturally of a mean servile temper, as Aristotle says the *Asiaticks* were; * but bold aspiring men may sometimes claim to this and shug themselves in the discharge of this Office of ruling, when perhaps they are most in the wrong, and Self-love and sweet Interest are often prejudices too strong for that Just and equal return of kindness which is requisite for a Society to expect. And therefore it's fit there be some antecedent Rules agreed to, and laid down to prevent such a Choice of Governours; or when they are made to curb their lawless despotick Humours in the execution of the Power thus committed to them.

Τὸς ἀρχὴν
τῆς πολιτείας.
Politic. lib.
1. c. 3. *Edis.*
Hensli.

I believe none will deny but that one establish'd regular Society (which now we call Government) by Nature was ordained for the security of Mankind in their Rights and Privileges, and that Men have voluntarily resolved themselves into Societies to repel Violences and the mutual preservation of one another; for tho' Self-preservation be made the primary Law and Aim of every individual; yet since that

cannot be effected without mutual Assistances (as was before observed) it is natural for Men to promise that Aid to others, which he expects again from them upon the like Exigences, according to the rule of the Civil Law, *Alteri*
 Reg. Jur. *per alterum non debet iniqua conditio inferri*, * and this I take to be the first natural Obligation that's on Man when once he enters into a Society civil.

Thus I have at length brought Man out of his natural to his civil State, out of his personal to his Politick Capacity, from crawling in his Hut, and from the fear of devouring Animals, to dwell in his Palace; and to govern reasonable Creatures or to be governed by them. It happens often that when mean Villages and Cities turn Rich and Populous they soon forget their first Original, like Beggars that on a sudden grow Rich, and set on Horse back, they will ride you know where, and will needs (by coveting the Dominion of their Neighbour, State or City) make War upon them with a Design (to be sure) to subject them to their own Customs and Manners; especially if they be conterminous and near one another, and if after a Series of Years they have wearied themselves by wasting one anothers Territories with Wars and frequent Incurfions, they may be glad at last to make use of the old Mother Principle of Necessity (tho' another thing may be pretended) and clap up a Truce or a long Peace, till at last by Marriages and mutual Alliances both Parties are willing to enter into solemn Compacts and Confederacies with each other, and pledge their Faith to observe them, and thus be so linked and united together in Manners and Interest that they desire they may be
 look t

I. Part I. of Scotland and England.

7

look't upon thereafter by the rest of Mankind as one Body Politick, and one People: Nay, tho' they were not at first set on equal terms, but the one side was much superior to the other, both in Riches and Power, Thus I am brought in unawares to the subject matter of the ensuing Treatise.

CHAP. I.

Of the several Divisions of Leagues and Unions, &c.

That small States as well as larger Dominions have been in use to Unite and League with one another, Histories both Antient and Modern, afford us Instances thereof which I shall not stand now to recite; it is enough I instance in the latter to wit, that Parties uniters were not at first on equal Terms, and now not to go far off to prove this it may suffice I tell you of that antient and honourable League betwixt Charles the Great of France, and Achaisus King of Scotland, anno 787, which cost Scotland no small Treasure both of Blood and Money; and tho' there be a great Disproportion betwixt these two Kings and their Kingdoms as to their extent and greatness, yet that puissant Monarch of France found it necessary to League with the King of Scots, and the notable Services perform'd by the Scots to that Crown the time of that League, did let the World plainly see, that it is not altogether improper for the greatest Crowned Heads to Associate and Confederate with the lesser.

* Beda.
 Histor. Ec-
 cles. gent.
 Angl. lib. 4.
 Baron. ad
 an. 6. 84.
 Lesly lib.
 4. Histo.
 Boet. Hist.
 lib. 9.

This League as it ensued on that fierce and bloody Battel obtained by our King even at the Water of Levin over the English Saxons, of which Beda and Baronius as well as Lesly and Boetius make mention, so it did let that King plainly see that it was not altogether incredible that Julius Caesar himself (to whose victorious Arms so many Nations and Provinces had submitted) did court the little King of Scots (but in vain) for a Peace, as did his Successors Claudius and Vespasian: And yet were denied by Caractacus and Galdus Kings of Scotland who bravely resisted all the Methods that were then used to engage them to the Conquerors side. It's like upon the same politick Considerations that France had confederated with Scotland; Spain thought fit to League after the same manner with Ireland, and both on purpose to weaken England so as she might not be Mistress of the Seas.

As the Smalness of a City or Nation did not hinder the Prince thereof to enjoy one absolute independent Power off greater Princes and Potentates as he did ere they joyn'd and united together: Yet by the greater Ones once associating themselves to lesser States they become the sooner Masters of vast Provinces and Kingdoms. Philip of Macedon found no more effectual Means than this in his Wars against the Greeks, and the Romans against the Italians; and it was in Imitation of these that France and Spain made use of this Politick in all their late Wars and Conquests, as Mezeray, Mariana and Strada tell us, which brings me to the Second Division.

Divis. 2.

Nay sometimes two contending States have entered into Leagues one with another; even when

when the one was conquered and over-powered by the other, in which to be sure the Conqueror made his own Terms the best he could. That memorable League between the *Romans* and the *Albanians* which continued from the Battle at the *Lake of Regilla* until the Consulship of *C. Plautius* and *Luc. Æmilius Mamercus* is a pregnant instance thereof, for says *Lib. 1.* *Livie*, *In eo fœdere Superior Romana res erat.* By this Confederacy and Union the Supream Power and Legislative Right of the one seems to be quite swallowed up in the other; for the State that formerly was independant is now only to be considered but as so many integral or subjective Parts for making up one great Body Politick.

There will a greater difficulty arise when *Divis. 3.* two States that are not on an equal Level as to Power and Force; and yet lived still in Enmity and War with one another, shall mutually associate themselves against all their Opposers, as the *Romans* with the *Massilians* and with the *Sicilians* too, *and thereafter with *Massinissa* * *Justin.* the King. Or as the *Thebans* in the time of *cap. 5.* *Pelopidas* made with the *Persian* Monarch; yet *Valer.* such an Union as this did not detract from that *Max. lib. 7.* Supremacy of Power which formerly was separately lodged in them both. But whether the conditions or burdens to be imposed by vertue of this Union on either side, be considered, as a permanent or transient Deed of the Parties Uniters, is made a question by the Doctors: Yet if the Protections agreed to be imposed on the one side were only upon the account of defraying the expense of a late War, or recovering an injury as yet fresh in their minds; or if it should be agreed upon that one side should

should in Civility and Decency be bound to preserve and defend the others Royalties and Imperial Dignities : Neither this latter, nor the former Conditions now mentioned ; can be understood to be a receding from the *Jura Majestatis* that were lodged in them both, before they were united : And thus I find the *Roman*

* L. 7. p. 1. Lawyer *Proculus*, * resolve the like question, *F. Capiti. et post lim.* *Liber autem populus est* (says he) *qui nullius alterius populi potestati est subiectus, sive is fœderatus est, sive a quo fœdere in amicitiam venit, sive fœdere comprehensum est ut is populus alterius populi Majestatem comiter conservaret.* It may be farther

added (says he there) as a Clause adjoined to the foresaid Union, That one Party should be thought in appearance Superior to the other ; yet it must not be understood so, as the other at the same time, is not a free People, by being Superior here, then, must in the opinion of this learned Lawyer be understood to be only Superior in Dignity and not in Power ; which the following words of the same Law, and the instance therein given doth plainly make appear, *Quemadmodum Clientes nostros intelligimus liberos esse, etiamsi neque auctoritati neque Dignitati, jure omni nobis pares sunt. Sic et eos qui Majestatem nostram comiter conservare debent, liberos esse intelligendum est.* For Clients or Vassals are rather under Protection or Patrimony, than

• Appian. under Power or Command *ἐπὶ πρὸς αὐτὰς ἔχοντες αὐτὰς* says the *Greek Historian*. • Nay by the foresaid Law albeit it were condescended upon, that the Subjects of some particular Places within their Territories, being Condemned and found Guilty, tho' they were not properly the Subjects of the Place, in which they were Condemned and Executed, yet that can never be interpreted

interpreted, as one Abridgment of the other Parties Sovereign Power. * Any that loves to dive further into that Question may consult *Grotius*, and the learned Author cited on the Margent. *aVide Cap. Tufcium conclus. 435.*

There may be an Union or Consociation between two Kingdoms or States that were on an equal Level as to Power and Authority; and that never were in Emnity or War with one another: Only as occasion offered they joyned their Powers, either to oppose a Foreign Enemy, or to repress intestine Broils and Stirs, that might be fostered in the bosom of their respective Dominions. I have set down this Division of Unions and Leagues to give the greater Light to the former according to *Aristotles* rule of Opposites; and of which those that treat of the *Jus Publicum* give us several instances, it may serve here to give an instance of the Confederacy between the ancient *Scots* and *Picts* upon the first Invasion of the *Romans* upon this Kingdom. But our daily Experience teaches us, That these Alliances and Consociations could never be so strictly made, than when a seeming Advantage by a Breach offered it self, one of the Parties associated, might find a plausible pretext of going off, and pursue his own ends, be they never so destructive in their Consequence, either to himself, or to the Party, with which he was formerly associated. And therefore Lawyers and Statesmen who are ever and anon busied, to find out Remedies for such desperate Diseases in the State, have advised Princes and great Potentates, rather to unite themselves with each other, that by the solemn deliberate consent of both Parties to the Articles and Conditions to be agreed and condescended

condescended upon ; the Persons and Interests of both, should be so mixt and moulded into one lump, as if they had never been divided. This as it cuts off the former distinction commonly made us of Confederacies being equal and unequal ; so by its equality it lodges the Supreme Power inviolably in both ; only that it restricts the Liberty of doing whatever they might afterwards fancy, in the things already voluntary agreed into, which in the State of their full natural Liberty, might be done without impairing the same.

* Ubbo
Emm. de
Grec. vet.
Tom. 3.
* Polyb.
Lib. 2. cap.
38. edit.
Causabon.

Thus by the Amphyctonick League or Union, tho' there was one Seal of Justice erected for all Greece, yet the *Summa Potestas* of every City there, was reserved inviolable, * as a learned Author tells us, the same learned Authors out of Polyb. Give us a closer instance of the Union of the *Ætolians* and *Acheans* who out of several States made one great *Common-Wealth* of which I find a less judicious Historian than any of the former makes mention, and that is *Justin* who Lib. 34. Cap. 1. *Recensione Grævii*, says, *Non propter singularum Civitatum nimias opes, sed propter conspirationem universarum, namque Acheii, licet per civitates, veluti per membra, divisi sunt, unum tamen Corpus, & unum Imperium habent, &c.*

There was also one Union between the *Carthaginians*, and their neighbouring States kept on foot a considerable time, of which and several other Unions of that Nature as that of the *Romans* with the *Sabins* reducible to the first branch of the Division of Leagues and Unions into equal and unequal (mentioned in the beginning of this Chapter) *Greek* and *Roman* Histories afford us some dark accounts.

Latter

Latter ages have followed this way of Unit-
ing Provinces and States to good purpose, and
they so well succeeded with them that now the
different Names of the Antient Kingdoms of
Castile, Arragon, Leon, Valentia, Andalusia.
Granada, &c. go all under the united Name
of *Spain*, Thus the Provinces and Kingdoms
of *Ghyen, Provence, Normandy, Brittain, &c.*
go currently under the general denomination of
France and live as one People. But these are
more violent Unions, than those I formerly
mentioned, and they absorpt the Supream
Power and Legislative Authority that should
have been equally lodged in the Parties Uniters,
and properly come under our Second division of
Unions; to wit, Unions of Conquest: And
so I shall not here take any further notice of
them, being they are extrinsick to my present
Design.

Only I here contend, that there may be one
intimate Communion of all Sorts of Goods
that may be judged necessary for the common
Defence and Preservation of two United States,
and yet the particular Rights of the Parties
themselves singly considered, no ways leased or
infringed thereby, for tho' every Member has
not the Power intirely in his hands, yet all
the Members when joyned together hath it, as
before, when considered as separate States :
The subject being in it's own Nature common
to all could not be lodged in its every indivi-
dual, but in all, when joyned together: and
yet all things are every Man's where Votes
by their number do not otherwise carry it.

Thus by the Union of *Utrecht* the States of
Holland and *West Freezland* are closely linkt and
united together, but it is still with Reservation
of

of the particular Rights of each single Province as the learned *Grotius*, * informs us.
** De Antiqua Repub. Batav.*

S E C T. I.

Of the Nature, Number and Original Signification of Unions.

AS to the Original signification of the word *UNION*, and the Force and Effect thereof, and the various acceptions in which it is taken, these things I leave to *Lexicographers* and *Philosophers*; as also the number of Ingredients that formerly in the Opinion of Lawyers, and Historians, make up a perfect Union. Some making them Four, some Six, and others Eight: Seeing they were never judged absolutely necessary to the perfecting an Union, nor yet strictly observed by any Parties that were disposed to Unite; but they made use of more or less of them, as their Interest and the Genius of the Parties did lead them for the time, and this must be held as the rule still in our present Union with *England*. I dare say if we have an Union in Language, an Union in Government and Laws, an Union in Councils, Offices, Employments, and an Union in Trade, the rest might be now easily dispensed with, till time and a Series of Years, do gently bring both the Nations into a nearer Acquaintance, and Friendship with one another, and to a Similitude of Manners and Fashions: And thereby prepare and dispose both sides to Cement and Unite even in these lesser things; which at this time might be apt to raise a great deal of needless Dust,
jangling

angling and strife among the less thinking, which make up the greatest part of both Nations.

The Foundation of the City of *Rome* was no sooner laid, than they began to immix themselves with their Neighbours, and orderly to Unite with the *Sabins*; * and the Authority of *Nicholas Machiavel* is brought on the Stage by the learned Sir *Francis Bacon*, Lord *Verulam* (or whoever is the Author of the Discourse of the Union of *England* and *Scotland*) who enquiring into the Causes of the Growth of the *Roman Empire*, said, because that State did so easily mingle and incorporate it self with Strangers. Had his Lordship brought *Cicero's* Authority rather than *Machiavels* for proving this, in my opinion he had done much better; for I find that the *Florentine* Politician * thought, that the great reason of the stability and firmness of the *Roman Empire*, was that they were not in use to receive Strangers into their City, which is so far from being true, that any that is versed either in the Histories or Laws of that Republick, may tell, he rather merits a Reprimand than an Answer. *Multum videlicet ad Imperii augmentum profuisse, quod civitas etiam hostibus aperta fuerat*, says *Cicero*. * Did not *Numa* and *Romulus* thus invite Strangers to *Rome*, says *Plutarch*, * *Thesens* to *Athens* says he, and *Alexander* the Great to *Alexandria*, as *Josephus* * tells us. Nay the succeeding *Roman* Emperors were so profuse and liberal of Naturalization of all sorts of Strangers, that *Modestinus* the Lawyer, was forc'd to call *Rome*, *Communis nostra Patria*, * which may be understood rather in a legal and forensick than in a natural Sense; for so we learn from *L. 2. F. 4. et seqq. & l. 24. F. de Juridiciis*.

* Livius

* Machiavel, lib. 1. Disc. ch. 6.

* Pro Balbo.

* Plutarch. in Rom. in Thes.

* Joseph. de Bell. Juda. lib. 3.

Leg. 33. *diciis.* And old *Seneca* jokingly said upon the
 F. ad muni- Death of the Emperor *Claudius*, that he should
 cipalem qui not have dyed, till he had brought the *Britains*
 in communi et qui ultra glaciale Boream, meaning its like,
Patria est, the *Scots*, into the number of being *Denizons*
præfens esse of *Rome*. But leaving these general Observati-
videtur, be ons to the more curious, I may venture to say
says Sahy- that as there was never any State that was so
et in sum- lucky in uniting and mingling with its Neigh-
ma. bours as the *Roman*: So never a People flour-
 ished more nor yet so long as they did, which
 made me longer dwell now upon this, on pur-
 pose to provoke the Nations of *Scotland* and
England in the present Juncture to a chearful
 and ready imitation of such an excellent Pa-
 tern. And if the *Greeks* and *Romans* be not now
 thought sufficient Paterns for us to Imitate, and
 that the authorities here adduced, may not
 have weight enough with the more scrupulous
 please then to look into Gods word, where we
 find among the Nations reckoned up by the
 Prophet *Jeremy*, the mingled People, * which
 * Jer. 25. Chap. 49. is called a rich Nation, or a national
 2. 30. 24. ease, and yet but a short time mingled as In-
 terpreters conjecture, to let us see easily Na-
 tions, when once they mixt and mingled toge-
 ther become Rich and Prosperous; their Stocks
 must necessarily encrease, because they all act as
 one Man, the *Septuagint* reads it, και πάντας τὸς
 συμμιχθῆς αὐτῶν.

It hath not been without Reason debated by
 Lawyers and Statesmen, whether Two King-
 doms uniting together, both should retain their
 antient Forms and Customs in all points as
 when they were separate and only maintain an
 Union by living under one Sovereign Power or
 Head? Or whether should these antient Forms
 and

and Customs be rather obliterated, and one new Form agreeable to both Kingdoms, brought in their place? It's true, the former has most prevail'd over the World, because of the vain Humour with which most People are possess'd, closely to stick to their own old Rights and Paternal Customs, tho' they can give no sufficient Reason for it; but certainly the latter Turn of the Question brings more of quiet, contentment, and happiness to the Parties Uniter: And the experience of Antient, as well as of latter Ages, does demonstrate the Truth thereof: For when States and Nations, after uniting one with another, continue to adhere to their antient Customs, in the way and manner they were wont to do before the Union, they, by that pertinacious Humour, foster and keep alive the Seeds of eternal Discords and Revolts, till all burst forth into an open Flame, to the consuming of both Parties. When seeming Friends begin once to divide and disagree among themselves, they are of all Enemies the most cruel and revengeful. And not to run up to bring far-fetch'd Instances out of Foreign Countries, as the Kingdoms of *Arragon*, and others, I shall heartily wish, that the Antient Kingdoms of *Scotland* and *England*, by their coming short of attaining to the happy Union, so long and eagerly gap'd for by both, may not give *Europe* a fresh Instance thereof.

To the Constitution then of a perfect Union, we are to consult the various Effects produced by Nature and Time; and to make a right Judgment of them in their several Periods; for, as it is against Nature to accelerate her free and regular Operations, so it is against

the Order of Nature, to antedate the Time and Seasons when these desirable Fruits come to Maturity. When a little Graft is impied and inserted into the Stock, and by a small twig bound up with it, we must rather leave it to the determination of Nature and Time, to make them closely Unite and Incorporate together; than by striving to press the Parts to make a sudden *Continuum*; which might cause a Discerption, rather than a solid fixt Union of the Parts; and 'tis probable those that derive the word Union from the Greek Verb ενω, which is to Ingraft, or enoculate, might

Ενοφθαλμοῦ ἔχειν- have had this Notion not improperly in their
 Λισυδὲς ἔγ- view. So Liquors when they are mixt toge-
 κεντεῖ- ther, they are at first pumbled and in a ferment,
 ζεῖν, as till the orderly Motions of Time and Nature
 Theophras- bring them to a settled clearness and onness,
 tus hath it that the one can never be distinguished from

Bacon. the other: So that it was well observed by the forecited learned Author, out of the Principles of the Peripatetick Philosophy, That *Compositio est opus hominis est mistio opus Natura.*

S E C T II.

How two People originally of different Natures and Tempers, may hereafter be inclined to Unite; particularly of the different Tempers of the Scots and English, and the Dispositions they had to unite.

BEfore I come minutely to consider of the Ingredients that make up this perfect Union, it will not be amiss to reflect a little on what prepared and disposed the People of these two war-like Nations, to seek so much after this Union; considering the vast difference of their Tempers and Genius's, and the different Interests they pursued, before the coalition of the two Kingdoms under one King, that it ought to be ascribed to some Impresses of a Divine Power, which over-rules the different Wills and Contrivances of Men, and cause all the Lines of their much admired Policies, contrary to their Designs and Projects, bow and incline their far contrary distant Ends to center and meet together, and yet without the least hurt or prejudice to one another.

T. II. The generous *English* Nation cannot, when they coolly consider, but acknowledge, that the true and Genuine Effect of this intended Union, was the peaceful King *James* the Sixth's Succession to the Crown of *England*. And as this Union naturally ensued on his Accession to the *English* Throne, so it might well be expected by all that understood the Tempers of

the *Scots*, (as being naturally a fierce, hot-spirited, proud People,) that they might reasonably expect to share in the success of their King and natural Prince, and be admitted to all the Immunities and Privileges that his Majesty's other Subjects within the Island of Great Britain might acclaim. And if the King (as my Lord Bacon asserts) could by his Prerogative grant to his own Native Subjects the *Scots*, such a share in his Fortunes, as to have equal Privileges with all his born *English* Subjects in the Dominions of *England* and *Wales* &c. at least with those *Scots* that were born in *England* before King *James's* coming to the Throne, called by their Lawyers the *Antenati*. How is it to be wondred, that the *Scot's* Nation, considering their Temper, would take ill such a disappointment? When all that was sought for by them, was not only agreeable to their Laws and Constitutions, but also highly conducive to the Good and Benefit of the *English* Nation in general, both in times of Peace and War; and when they were courted to by the best of the *English* Nation at that very time.

And since we cannot make a true Estimate of the Genius and Temper of a People, without tracing their Original, and hitting the Rock from whence they are hewn, I judge therefore not improper to make a Digression here, about the Origine of the *Scots* and *English*, that we may the more distinctly conceive their Natures and Tempers, and their Disposition to this Work: Which as it is generally unknown to the Inhabitants of this and the Neighbour Nation, so it may be instructing as well as pleasing to the Reader.

Part I. of Scotland and England.

21

So far as can be gathered out of the broken Shreds of antient Story and Rubbish of those fabulous Times and Writings, it seems probable, if we give credit to our Antiquity and our Authentick Records, That the Scots derived their Origine from the *Greeks* and *Egyptians*, and that a *Grecian* Prince named *Gael* or *Gathelus*, descended (as 'tis said) of *Cecrops*, the Founder of *Athens*, in his Peregrinations and Wanderings through *Macedonia* and *Achaia*, and leaving his own Country out of disgust, concerted against his Governors, gathered a Company of resolute young Men together, and setting them on Board his Fleet prepared for that end, came to *Egypt*, and thereupon his assisting *Pharaoh*, King of *Egypt*, so strenuously against the *Ethiopians*, he in remuneration of his good Service, got *Pharaoh's* Daughter *Scota* to Wife; from thence he came to *Portugal*, so called by some, from *Portus Gatheli*; loosing from *Portugal*, he came with all his Forces for *Cantabria* (now *Gallicia*) where he contracted Friendship with the Inhabitants thereof, and there he built the Town *Brigantia*, now *Compostella*, and wou'd needs call all the People *Scoti*, from *Scota* his Queen: Hence the *Scoto-Brigantes*, so often made mention of by Writers. They rested not long there, when they began to extend the Limits of their Conquests into *Cantabria*, a part of *Celtiberia*, which is washed by the River *Iber*. The probability of this Account is confirmed from the Affinity of the Language, Manners, and their Dead way of Living, that these *Spaniards* who possess'd the Borders of *Cantabria*, now call'd this *Castalia*, have to this very day with the *Irish*, and our *Scots* Highlanders. *Gathelus's* People

daily increasing, some years thereafter, a select Company of the *Scots* Nation (as they were first called) under the Command of *Hiberus* and *Hemecus*, *Gathelus's* two Sons, went to the Northward of *Spain*, to plant a Colony in *Ireland*, being the first Island they happen'd to come to, and after some Skirmishes subdued them; which when he had done, he returned to *Cantabria* for some time, and left his Brother *Hemecus* to govern the Isle. Of this *Hiber*, among others, is *Simon Breck* descended, whom the *Scots* (upon some quarrels that arose betwixt them and the Natives there) by their Ambassadors from the West of *Scotland*, to *Hiberia* or *Ireland*, as being descended of *Hiber*, whom they would have to be King of *Ireland*; which accordingly was unanimously agreed to; and after being in the Marble Chair, was proclaimed King, the year 60 after *Rome* was built, and before the Incarnation 695.

Of this *Simon Breck*, some few Generations thereafter, was one *Rothefaus*, a Princely Youth who first settled Colonies in our West Isles or the *Hebrides*, or *Ebonian* Isles, which lie to the Westward of Old *Albion*, and there built the Town of *Rothefay*, called after himself, which is yet extant: Thereafter these Colonies spread themselves to the North-west Parts of *Albion* and called them *Argathelia*, in memory of *Gathelus*, now *Argyle*. And here the Origine of our *Scots* is fairly brought to our Doors: And

(a) Hist. the Account seems to be the more True and
Scot. lib. 4. Genuine, that *Buchanan*, (a) who professes to
initio. have shaken off all groundless Traditions and
vanity of Fables, so obscured by the length
of Time and Darknes of unlearned Ages, and

grees to the greatest part of this Account, only he is not particular as to the Time the Scots settled in this Country ; which it's like has occasioned a late ingenious Author , (b) and a Minister of State, to be at the pains to give the World another Account of the Origin of the Scots, and to tell us that they came from the Scythians, a Savage People that inhabited Norway, from the nearness and affinity not only of the Name Scots and Scythians, but likewise from Norways being the nearest Seat to that Continent, which is nearest to the North of Scotland: And as the utmost Western Province of that vast Northern Region, which extends from thence to the farthest Bounds of Tartary, upon the Eastern Ocean, and was by the Antients comprehended in that general Appellation of Scythia, and by an easie change of the Word was called Scotia ; and to fortifie this Conjecture, he says, *That it is both Rational and Usual, that such great Transplantations of People should be made from a worse to a better Climate or Soil, and not from the lower and more fertile Parts of Germany, and that Island which is the nearest part of Land to that Continent of Norway, retains still the name of Schetland.*

(b) Sir W.
Temple's
Introduct.

Next he draws an Argument from the Similitude of Manners and Customs, between the Old Northern Irish, and the Antient Scythians : and that this Nation was driven away either by force or fear of some other Invaders. And lastly, this Conjecture of his is more probable, in that Buchanan, nor no other Author pretends to tell the Time of the Scots coming out of Ireland ; but in the end acknowledges, That this fierce People, then seated in Caledonia, would have made greater noise in the World,

and stronger Impressions upon the *Romans*, if their greater numbers had not been drawn another way, by so great a drain as that of *Ireland*, which they totally Conquered, and long Possessed.

However true this specious Account may seem to Strangers, yet to those that are inwardly acquainted with our Records and Histories, the belief thereof cannot be so easily swallowed down by them; and therefore by that worthy Author's leave, I think it more proper rather to give credit to the dark Accounts given of the Origine of the *Scots* by our Ancestors, who left us on Record what they well knew, than to found our belief on the fabulous Conjectures of *Runnk* Stories: Nay, I am apt to believe, that this Gentleman has all along confounded the entrance of the *Picts* with that of the *Scots*: Indeed a little after the *Scots* possessed *Caledonia*, (for so these Parts to the North-East of the Kingdom, beyond the River of *Forth*, was called *Deun Caulden*, from an *Hill of Hazel*) we are told that a sort of People called *Agathyrstian Picts* (from *Agathyrstia*, a Province of *Scythia*) after various Wanderings and Peregrinations through *Sarmatia* and *Germany*, and from thence to *Denmark*, then called *Cymbrica Chersonesus*, and having seated themselves for some time there, they resolved to Ferry over to the *Orcard* Islands; where they continued for a longer time, insomuch that *Orkney* was called the Antient Kingdom of the *Picts*. Thus we see that Ferry that leads from *Orkney* to *Caithness*, had the name of *Pictici-Bosphori*, and to this very day is called *Pithcland-Frith*. They were called *Picts* from their frequent Painting of their Bodies,

dies, as some say; or as others say, from painting of their Shields and Helmets. They came to *Albion* to mingle with the *Scots*, the called *Albinich* (as they are at this day called by our *Highlanders*) 250 years after the *Scots* had settled in it: They desired Wives of the *Scots*, and to enter in League and Friendship with them; and continued in that Friendship till they and the *Britains* had treacherously Combined to extirpate their old Friends the *Scots*, which in the end proved Fatal to them both.

And now to traverse this known and received Account, upon forsooth a Grammatical Notion of the nearness of the Termination of *Scyths* and *Scots*, is not to be done by Men of Learning and Judgment; for pray is not there as great nearness of Termination between the *Getae* (from whom it's said the *English* are come) and *Gothi*, and yet if we believe the more antient Historians, among the *Greeks*, they'll tell us, that these *Getae* were *Thracians*, and not *Goths*; so *Herodot.* affirms in his *Melpomene*, lib. 4. which indeed seems to be true, being there is no mention made of the *Goths* till after the time of *Antoninus*, and a little before *Constantine's* time, whereas there was frequent mention of the other in antient *Greek* Story, as *Arrian* and others tell us; tho' thereafter they might be mixt and confounded together. From the like mistake of Affinity of Termination, that learned Geographer and Historian *Cluverius*, lib. 1. would needs have the *Getae* to be *Germanians*, against the Authorities here adduced, particularly *Arrian*, who in the Life of *Alexander* the Great affirms, that the Antients believed that the *Getae* were a *Celtick* Nation; and the name of *Germania* was not then known, if

if we credit *Tacitus*, that it was about his own time the name of *Germany* was given. But not to stand any longer on this, I should think there is as great nearness in the Terminations of *Hiberia* and *Hibernia*, as that of *Scoti* and *Scythi*; and if Sir *William Temple* had been pleased to have consulted *Strabo*, he would have seen his Error; for he positively asserts, that *Scythia* was given as a common Name and Appellation to all Northern Countries; nay his own Countryman *Cambden*, speaking in his *Britania* of the *Picts*, says, That the *Getes* and *Goths* were *Scythica Gentis*. If the *Goths*, of whom, as it's said, the *English* are partly come, be *Scythians*, and that the *Scythians* are *Scots*, then in common consequence the *Scots* and *English* must have had the same Original, and been at first one People; and if so, it is no wonder, that after they were severed they should be so desirous now to unite. Thus we see how little ground there is for reasonable Men to lean to Grammatical Terminations, as this ingenious and worthy Gentleman does; who in the next place alledges, *That it's more Rational for People to make their Conquests in better Countries than their own*: But he soon forgot the *Roman* Conquests, and did not mind that they left the Garden of the World, (if I may so speak) and to make a Conquest of the barren Parts of *Britain*; and had he considered that such rich and fertile Countries (as *Spain* and *Italy*) were then overpower'd by a throng of Inhabitants, that made living there uneasy, he would have concluded rather with me, That the old Mother-Principle of Necessity, obliged some Heroick Spirits that were penned up in these narrow Countries, to seek for

for larger Fields to breath in, and to make them the Theatre of their Valorous and Heroick Atchievements. And therefore methinks it's all out as rational to conclude, that the first *Scots* might have come from *Spain*, as from *Norway*, especially that I have *Tacitus* for to avouch the Truth of this: *The Scots* (says he) *are of a Spanish, and the Picts of a German Extract.* (a) The same mention is also made by *Mela*, *Eutropius*, by *Virgil* and *Claudian*, whose Authorities I shall ever prefer to those of the *Runick Stories*, invented by Magical *Woden*, or *Fimbult*, be they never in such account with our Author; and if there were no other to cry down and discredit them *Runick Stories*, but that by setting them up they destroyed the true Account we had from Antiquity, of the Antient *Getes* burning and destroying all the antient Monuments and Books written on that Subject, it were enough: Nay, these *Runick Stories* were ordinarily so full of Magick, that the Christian Religion was in hazard by them, insomuch that *Loccenius* tells us of one *Sigefridus* a *British* Bishop, obtained by the Pope's help, to get them discharged in *Swedeland*, Anno 1050. nay got the very *Runick Characters* discharged, lest any Charms or Magical Spells were in the Letters themselves: Thereafter they were discharged in *Spain*, and at length solemnly Condemn'd by the *Toletan Council*, Anno 1516. says the *Runick Historian*. (b) It's like these *Runick Letters* and Incantations came with the *Getes* and *Saxons* into *England*; for *Bede* in his Ecclesiastical History says, That the English Saxons after they had received the Christian Faith, were Incantationibus Runarum de-diti. Hence the name of *Runecrafty* was given to

(a) Tacit.
in Vita Ful-
lii Agricol.
Edit. Ryc-

kii.

Antiq. Sug-
goth. c. 14.

(b) Wormi-
us lib. Ru-
nic. c. 28.

to such as as were vers'd in that Diabolick Art; and the little Verses wherein these Inchantments did consist, were called in *England* Runstaves, and I believe from them came our *Rundels*, which in antient Times were much used in this and other Northern Kingdoms; and it's like by the frequent using of these Magical Songs and Runick Verses, that Magical Spirit of Witchcraft has prevailed so much in this and the more Northern Kingdoms, to the ruin of true Religion, and no small hurt of Mankind. Which makes me wonder to find now any Christian, far less a Person of the Author's eminent Qualities, to be so far imposed upon, as to give credit to such ridiculous Magical Stories, so unworthy of him or any good Christian.

In the next place, the North of *Scotland* is no nearer *Norway*, than *Rothsay* in *Argyle-shire* with the adjacent Islands, are to *Ireland*; and our first Kings being call'd from *Ireland*, to Head the *Scots* in their extremity, against the treacherous *Picts* and *Britans*, argued their natural liking to the Country from whence they first came. And the reason why this worthy Author doubts of the Account I have now given of the Origine of the *Scots*, out of *Buchanan* and others, is because the time of that Expedition was not particularly agreed upon by him, is now the reason why I find fault with his Account, and the Truth thereof: And I have done my best to make up that defect in our learned Historian, by agreeing on the time when that Expedition was made. Thus by a long Digression not altogether impertinent to the present purpose, I have endeavoured to trace the Origine of the Antient Natives of
this

Part I. of Scotland and England.

this Country, that this Age may have a true Idea thereof.

But to come a little closer to my design, I presume to think, that this is not the Origine of the present *Scots*, who by reason of the different mixtures of *Scots*, *Britans*, and *Picts*, that afterwards happen'd to live in this Kingdom, the *Scots* now and of late years, have borrow'd their Natures and Humours from all the three; thus twisted together by Marriages, Leagues, and the like, than from the antient *Scots* only. And it's in this Acceptation I would have the *Scot's* Tempers to be measured by our Neighbours; as we ought likewise to judge of their Humours, not from the first Inhabitants, and the old *Britans*, but from the *Saxons*, *Danes*, and *French*, since the *Norman* Conquest, who, in the common Opinion of Mankind, were People of far different Humours and Natures from those the *Scots* are descended: Which makes our intended Union still appear the more odd, that such a diversity of Humours and Inclinations, originally seated in the Inhabitants of these two warlike Kingdoms; the one being hot, fierce, and revengeful, the other (according to the Character given of them by *Polydore Virgil*) haughty and proud, yet cunning, courteous and civil, yet warlike and brave: That these vastly different Tempers should now seek to unite and center in one common Good accruing to both, is next to Divinity it self to conceive the reason thereof. It's rather then to those latter mixtures such an inclination to Unite is to be attributed; and by our late frequent Marriages with the *English*, our former Inclinations are so metamorphosed and changed,

changed, as to have a greater liking for them. And by some of our Nobility that are said to be Descended of *English* Parents in former times, as well as of late, such as the *Ramsseys, Lindseys, Rosses, Bruces, Hamiltons, &c.* their being advanced to be Ministers of State, did so influence our Kings, as at length to cause them to throw off that furliness and ferity of Humour they still put on (when they had to do with their Neighbour Kings of *England*) and to entertain gentler and more friendly Thoughts of them; which by piecemeal has won itself at last to dispose the People of both Kingdoms, of their own free accord, to Unite; that by their Joint-Counsels and Arms they may the better bear down the Exorbitant Power of their Enemies, and dissipate the Fears and Jealousies (which are the Seeds of our intestine Divisions) under which we daily lie. So as nothing is to be respected but the Universal Good and Common Interest of the whole Isle of *Great Britain*. Thus by uniting our Strength we shall become more Formidable abroad, and better beloved at home; and so verifie the Title Page of this Essay, *Vis Unita Fortior*.

C H A P. II.

Of the Inclination of the English Nation in particular to Unite with Scotland, and what moved them thereto.

AS in the former Chapter and Sections depending thereon, I have demonstraed the Natural Inclination that might have led both Nations mutually to Unite, so in this Chapter I shall beg leave to treat of the Desire and Inclination the *English* in particular had to Unite with the *Scots*, and that upon more Artificial and Politick Considerations.

These Præ-dispositions then no sooner took root in our Neighbour Nation, then they began to bud forth in the Councils and Actions of their wise Kings, who slighting the violent Ways of Uniting by Forreign Princes, did set on foot by Marriages and other legal Methods a ready way to Unite these Nations. Thus the Kings of *Scotland* were upon Politick Considerations best known to themselves, preferred by them to all other Forreign Princes; for *Henry* the First of *England* not only thought fit to Marry *Maud* the Good, and *Henry* the Third to Marry his Sister to *Alexander* the Second, and thereafter his Daughter to *Alexander* the Third King of *Scotland*: But to pave the way for a firmer and closer Union between the two Crowns; it was formerly proposed by *Edward* the First of *England*, that the Maid of *Norway*, then Heiress of the *Scots* Crown, should be Betrothed to his Son *Edward* the Second, with this

this Proviso, that if no Issue did exist of the Marriage, that both Kingdoms should be *ipso facto* Free and Independent as they were at first; which, by the by, as it Demonstrates the Sovereignty and Independency of the *Scots* Crown, of that of the *English*; so it lets us see, how ready they were to take the opportunity of Uniting with us. But She dying unluckily ere She was marriageable, made this noble Project Dye alike with her; which as it was an ill Omen and Presage to the several attempts made by succeeding Princes to compleat this happy and generous Design; so I may be bold to say it has had the like faint Effect to this day, to the no small grief of all well disposed Persons in both Nations.

Nay, *England* was so fond of pursuing this Project of an Union with *Scotland*, that one of their wisest Kings *Henry* the Seventh, would needs Marry his Eldest Daughter *Margaret* to *James* the Fourth King of *Scotland*, after having rejected the greatest Matches in *Europe* to her, which could not miss to give great occasions of grumbling to his whole Nobility and Council: That the Eldest should be given to the petit King of *Scotland*, and the Second Daughter to the Great Monarch of *France*. The Reasons that this wise Prince was pleased to for give it, are set down at large by the learned *Author of his Life, and so needs not here be repeated. And there was such an universal Joy and Satisfaction in the *English* Nation on the account of the intended Union with *Scotland*, that their own Chronicle tells us, That the Contract of Marriage was solemnly published at Pauls Cross, which made their Churches not only Eccho with Acclamations, and Thank giving

* Bacon.

swings, but their very Streets to shine as if it were Noon-day, with Illuminations and Bonfires. Which was to give the World a plain Demonstration of the secret Joy they had conceived for the good effect that was to ensue upon that Marriage, as if they had been inspired from above to do it. And the same learned Author of his Life tells of an expression in the King's Letter to the City of London, worthy ever to be minded, to wit, *That now he hath built a Wall of Brass about his Kingdom, when he had a King of Scotland, and a Prince of Spain for his Sons in Law.* Thereby letting us see that it was meerly upon Reasons of State and Politick Considerations that he gave preference to the King of Scotland.

His Son Henry the Eighth pursued the same Design, and left no Stone unturned to make it succeed: But our Popish Churchmen having more Zeal than Knowledge were then so wedded to Peter's Chair in Rome, (as perhaps our present Kirkmen are to that of Calvins in Geneva) that they would hear of no Propositions tho' never so advantageous, that came from King Henry, meerly upon the suspicion of Heresie. *Quantum Religio potius suadere*— but they would needs have our King Married to a Daughter of France, little considering that if by such a Project, both Crowns should happen to Unite, the Kingdom of Scotland as the the less, would without doubt be swallowed up by France, as the greater. Yet they were so in love with this Match that they resisted all the Instances made by England and by the Scots Peers who had faithfully promised that their King should Marry the Daughter of England. And tho' for the affront of the refusal,

D

the

the *English* entered *Scotland* with a numerous Army and were Victorious; yet they wisely issued a Proclamation declaring that they had no Intention of subjecting *Scotland* to *England*, but to melt down both Nations into one Monarchy, and that the Name of *Britain* should be the common name of both, take the Proclamation as follows,

THAT tho' it would seem most proper for the Scots to Sue to Us who are Superiors in the Field, and Masters of a great Part of their Realm; yet that Our charitable Mind and brotherly Love might be known, We do by all means possible provoke and call you to your own Commodity and Profits, as the Father does the Son, or the Elder Brother the Younger.— And invite you to Amity and Equality, because as we inhabit in the same Island; there is no People so like other in Manners, Customs and Language. But because some object that we do not seek Equality, nor the Marriage, but a Conquest, and that we would not be Friends but Lords, although Our Proclamation at the last War did declare the Contrary; yet here We declare to you and all Christian People to be the King's Majesty's mind our Master: By our Advice and Council, not to Conquer but to have in Amity, not to win by Force, but to conciliate by Love; not to Spoil and Kill, but to Save and Keep; not to Dissolve and Divorce, but to joyn in Marriage from high to low both the Realms, to make up of one Island one Realm, in Love, Amity, Concord, Peace and Charity.— We offer Love, We offer Equality and Amity; We overcome in War, and offer Peace; We win Holds, and offer no Conquest; We get in your Land, and offer England. What can be more offered, and more proffered, than Intercourse of Merchandizes

Merchandizes and interchange of Marriages, the
abolishing all such our Laws as prohibite the same,
or might be impediment to the mutual Amity? We
have offered not only to leave the Authority, Name,
Title, Right or Challenge of Conquerors, but to
receive that which is the shame of Men overcome, to
leave the Name of the Nation, and the Glory of
the Victory, (if any we had or should have of you)
and to take the indifferent old Name of Britains
again; because nothing should be left on our Part
to be offered, nothing on your Part unrefused where-
by ye might be inexcusable.— What face hath this
of Conquest? We intend not to Disinherit your
Queen, but to make her Heirs Inheritors also of
England. We seek not to take from you your Laws,
nor Customs, but we seek to redress your Oppression,
which of divers ye do sustain in the Realm of Eng-
land, divers Laws and Customs be according to the
ancient usage thereof, and likewise France, Nor-
mandy and Gascoigne have sundry kind of Orders,
Have all the Realms and Dominions the Emperor
now hath, one Custom and one sort of Laws? These
vain fears and fantasies of expulsion of your Nation,
of changing the Laws, of making a Conquest, be
driven into your Heads by those, who indeed had ra-
ther ye were all Conquered, Spoiled and Slain; than
they would lose any point of their Will of their desire
of Rule, and of their Estimation, which they know in
quietness would be seen what it were, as it were in a
calm water.— If we Two being made One by
Amity be most able to defend us against all Nations;
and having the Sea for the Wall, mutual Love for
the Garrison, and God for Defence, should make so
able and well agreeing Monarchy, that neither in
Peace we may be ashamed, nor in War affraid of
any worldly or forreign Power: Why should not you
be as desirous of the same, and have as much Cause

to rejoyce at it as we? And for a more sure Proof and Plainer token of the good Mind and Will which we bear unto you, that which was never yet granted to Scotland, in any League, Truce, or Peace, betwixt England and Scotland; because ye shall have proof of the beginning of Love and Amity of both the Realms, the King's Highness considering the multitude of them which are come to his Majesties Devotion, and of them that be well-wishers and aiders of this godly Enterprize, hath by our Advice and Counsel granted, and by these presents grant, That from henceforth all manner of Merchants, and other Scots-men, who will enter their Names with one of the Wardens of the Marches, and there profess to take part with us, in this before-named godly purpose, may lawfully, and without any trouble and vexation, enter into any Port, Creek, or Haven of England, and there use their Traffick of Merchandise, buy and sell, bring in the Commodities of Scotland, and take and carry forth the Commodities of England, as liberally and as freely, and with the same and none other Customs therefore than Englishmen, and the King's Subjects do at this present.

The wise English to keep alive the sparks that now lay hid under the Ashes, did in plain Parliament rescind King Henry's Testament; (which was an unheard of Power granted to him by the Parliament, to name his Successor by Testament in a Patrimonial Kingdom) with a design no doubt to prosecute the much wished for Project of an Union.

From all which it is evident, how fond our Neighbour Nation (tho' much superiour to us) was to unite with us; and that rather in a civil legal Way, by Alliances, &c. than by that barbarous forc'd way of uniting by Conquest: which

re Proof
ill which
granted
ace, be-
ye shall
Amity of
ering the
Majesties
and aid-
vice and
at, Thas
and other
with one
e profes
odly pur-
uble and
Haven of
Merchan-
of Scot-
odities of
with the
Engliff-
ent.

e sparks
in plain
tament;
anted to
Successor
m) with
ch with-
ond our
ar to us)
in a ci-
n by that
onquest:
which

Part I. of Seotland and England,

37

which tho' I have made use of it in the Chapter preceding, as a Term contra-distinct to the other, yet it cannot be truly call'd an Union, since an Union in its one nature doth imply the free, mutual, and voluntary Consent of the Parties Uniters; but here the weaker sides with the stronger, and by his submission joins with the Power; he is not able to resist. A pregnant instance of this Doctrine (waving Foreign Instances) is our King *James* the Sixth's Succession to the Crown of *England* by legal Descent, which had he come to by Conquest, there had been greater Treasures of Money and Blood spent, (and perhaps to little purpose) than both Nations would ever be able to recover, or yet to digest to one another.

And tho' that previous Disposition to Unite, did not so early seize our Kings (for which I may not well excuse them) as it did those of *England*, yet I observe that by King *James* the First's Marrying the Duke of *Somerset's* Daughter, who, as was then contended by some Lawyers, was rightful Heir of the House of *Leicester*, our King began to meet our Neighbours of *England* half way, and to feel the good effects of such Alliances; which you see was thereafter so much cultivated by their Successors, and so happily centred in the Person of our King *James VI.* of *Scotland*, and first of *England*, whose accession to the Crown of *England* was justly term'd *Unionum Unio*.

S E C T. III.

King James the Sixth's undoubted Right and Lineal Succession to the Imperial Crowns of Scotland and England Demonstrated, and the Reason of handling it here, and first of Scotland.

TO follow out the Thread of the Succession to the Crown, which has been handled by several Learned and Eminent Persons in both Nations, and that with some respect to an Union of both, thereby the better to allay the needless Dust often raised by seditious and unquiet Spirits, on purpose to blind the Eye of the Vulgar, and to blunt the edge of their malevolent Purposes and pernicious Designs I should think were needless, if the present Argument of the Union did not by a necessary Supposition require it. I shall therefore e're I descend particularly to the Subject of the Union, here endeavour to clear King James's undoubted Title by Succession, not only to the Crown of *Scotland*, but also to that of *England*, that I may leave no Occasion of doubt or ground of Cavil to the Subjects of either Kingdoms.

Crowns and Diadems I know are such tempting Objects, and such rich Prizes, that the righteous Heir who has best Right, doth seldom or ever attain them without great Disputes and mighty Competitors, brought on the Stage on purpose by turbulent Spirits, to jumble the State of Affairs, so as they might well

fancy

fancy with themselves, that either the true Heir might chance to die without a Successor, or to quit his just Pretences, tho' set in their clearest light; or so weaken his Interest in the Kingdom he succeeds to, as not to be able to repress his secret as well as open Enemies, who out of a boundless Ambition might expect in a little time to be themselves the Persons that would succeed, either upon the accounts now suggested, or make the Succession so depend on the Election and Arbitrement of the People, who out of a fond humour might come to chuse them sooner than others.

As this seem'd to be in *Parsons* the Jesuite's view in *England*, so it's like *Buchanan* had the same view here in *Scotland*, that those Firebrands might join Issue, and like *Sampson's* Axes Tails be link'd together, while they look differently to set both Nations on Fire. What prompted them to vent such new Doctrines at that critical Instant, is partly told us by *Blackwood* (a) and the learned *Craig* (b) and since by the no less learned *Sir George Mackenzie* of *Rosehaugh*. (a) *Apolog. pro Regib.* (b) *De Successione Reg. Angl.*

And now not to enter minutely upon the point of the *Scots* Succession, being it is somewhat extrinsick to my present Scope and Design. It shall suffice in the general to observe, that the Rules of Succession being plainly and simply related by all our Histories and antient Records, except that of *Buchanan's*; and a Law solemnly Establishing the same, it looked rather like the Singularity and Arrogance of an ill-natur'd Schoolmaster, than the sincerity and gravity of a faithful Historian, to fly in the face of so known a Law, and such an universally received Tradition.

It's evident then, in spite of all that's al-
 ledg'd by him or the Jesuit *Parsons*, That the
Scots when at first envid by their new Allie
 the *Picts*, and oppress'd by them, and the *Brit-*
tans, were forced to make choice of one Pow-
 erful Person to lead them to Battle, and to
 Head them against their Enemies: They there-
 upon thought fit to call *Fergus* the First from
Ireland, and by making him their General (in-
 stead of the little Petty-Captains and Chief
 of *Clans* they had formerly) he fairly Route
Coilus the King of the *Britans* with his whole
 Army. The joy which the oppress'd *Scots*
 conceived at this unexpected Victory by *Fer-*
gus, made them without any more to do, de-
 clare him to be their King ever hereafter
 and swore Fealty to him and his Heirs, with-
 out any Limitations; which Oath, Bishop *Le-*
ys, was engraven'd in *Hieroglyphicks* upon
 Marble, to make it, it's like, have the most
 lasting Impressions on succeeding Genera-
 tions.

To this Account all our Historians general-
 ly agree, and they tell us, That this Rule of
 Hereditary Succession was solemnly Sworn to by
 the People of *Scotland*, 330 Years before the
 Incarnation: Yet such is the fickle Humour
 of the heedless and unstable Multitude, that
 no sooner was this Noble and Heroick Cap-
 tain laid in the Dust, than they began to di-
 vert the Channel into which the Succession was
 naturally to run; and against all the Rules of
 Conscience and Gratitude, they pass'd by *Fer-*
gus's Son and Lineal Heir, out of the specious
 Pretence of his Nonage; and chus'd *Ferithan*
 his Uncle in his place; which our Historians
 tell us was also done for several Ages there-
 after

ter: And I find that *Lefly*, as well as *Buchanan*, tells us, That upon *Fergus* the Firſt's Death, there was a ſort of a Statute made, that the neareſt *Agnati* of *Fergus*'s Family ſhould ſucceed to the Crown, and upon his deceaſe the next apparant Heir was to ſucceed, *Eaq; lege vetitum* (ſays *Hector Boethius*) *pueros Regnare*. Which Law was ſaid to continue till God raiſed up *Kenneth* the Third to be their King, who, to ſecure his young Son *Malcolm* in his Father's Throne, he made him firſt to be declared Prince of *Cumberland* (a Title ſtill beſtowed on the apparant Heir of the *Scots* Crown.) And thereafter in a ſolemn Meeting of the three Eſtates, there was a perpetual Sanction made, That the King's eldeſt Son, and failing of him, his Grand-child ſhould ſucceed to the Crown, notwithstanding their Minority; during which Interval they were to chuſe him a Tutor for Adminiſtration of Affairs, until he were paſt the years of Pupilarity, which is declared by our Law to be fourteen Years complete; and when he was to arrive at that Age, he might chuſe his Curators, and aſſume the Government; and thereupon caſſed and abrogated that Law made in favour of *Feritharis*, mentioned by the fore-cited Authors.

Againſt which wiſe Law and Royal Subſtitution, *Buchanan* ſets all his Engines at work to decry it, and muſters out all the Arguments his Learning and Malice could prompt him to: It is more particularly to be ſeen in the Preface of the Seventh Book of his Hiſtory; and in the ſame *Kenneth* the Third's Grandchild, *Buchanan* the Firſt's Succeſſion.

Buchanan.
Hiſt. l. 7.
Vita *Duncan*
cani primi.

But

But as Lyars seldom have good Memories and those that take the Argument by the wrong handle, fall into Inconsistencies and Mistakes, whereby, to the judgment of all known and impartial Readers, they are forced to yield the Cause, so much against their will. So it fares here with *Buchanan*, where a little thereafter in the same History, speaking of choosing Tutors to King *James* the Third, and approving of Bishop *Kennedy's* Elegant Speech against the Queen's Regency, plainly says 'That tho' *Kenneth* the Third was made to be the Author of that Statute, yet that it was not so much a new Law, as it was declaratory of an old one: *Mihi Lex est a Kennetho Rege, non minus prudentia & consilio, quam belli gloria claro, ante quingentos amplius annos lata, & ab omnibus Regni ordinibus accepta, & usu tot annorum ad huc usq; diem probata, &c.* And then adds, *Hæc Lex etsi ad Kennethum veluti auctorem referatur, mihi tamen non tam primæ eam tulisse videtur, quam vetustam Scotorum consuetudinem nova sanctione confirmasse.* So that in the judgment of *Buchanan*, personating the Bishop, *Kenneth* the Third was not the first Instituter of that Law; and therefore by just Consequence it was in force before his time till the ambitious and restless Spirit of the younger Descendants of the Royal Family had let it run in Desuetude.

As for *Buchanan's* main Objection against this excellent Law of *Kenneth* the Third's, approved by the three Estates, and inviolably maintained by his Successors, to wit, that it ordinarily bred Divisions, and occasioned many Murders and Blood-sheddings in the Nation &c. the contrary is well known, that Divisions

These I suppose are more pregnant Instances of the Will of God, and of his over-ruling Providence in maintaining our Royal Line, than any that are adduced by *Buchanan*, whose malice against the Hereditary Right and Succession of our Kings, could not be stay'd here, but he must yet burst out into another mistake, to make all his Arguments of a piece, which, in plain *Scots*, is to make them all one entirely.

Thus he confidently tells the World, ' That *Malcolm* the Second died without Heirs-Male; which is an Error, for he had Sons, who happening to dye before himself, his Grand-child by his Daughter *Beatrix* did succeed; whose Posterity, by the wonderful Providence of God, continues to this very day: Only there was a pause in this Succession by the death of *Alexander* the Second, and *Alexander* the Third, and of the *Maid* of *Norway* his Grand-Niece; the Right of Succession was devolved upon the Collateral Line, and these Descended of *David* Earl of *Huntingdon*, who was younger Brother to *William*, Sirnam'd the *Lion*: Whereupon that famous Question (whether the *Bruce* or the *Baliol* had best Right to succeed) was much agitated in both Kingdoms; and occasioned mighty Divisions, and great Effusion of Blood e're it was decided. *Baliol* having submitted his Pretences to *Edward Long-shanks* (for so *Edward* the First was call'd) he willingly embraced the occasion, thinking thereby to make *Scotland* his own, at least to make the Kings of *Scotland* Feudatary Princes, holding of the Crown of *England*, did side with the *Baliol*, against *Robert de Bruce*; but the Debate betwixt these Competitors was not so much founded

The Question betwixt the Bruce and the Baliol truly Stated.

Founded upon these Laws, as upon the Proximity of Blood, and who was nearest Heir to the Crown of *Scotland*, upon the failure of the whole Issue of *Alexander* the Third, as is said; it being most agreeable to the Nature of Man, (where there is no express Will to the contrary) that the Propinquity of Blood should still be look'd upon to be the Measure of Natural Affection. Which Debate as it was most difficult to be resolved in point of Law, so it is rendred more intricate and perplext by the several Accounts given of it in our Histories.

For clearing whereof, it will not be improper to distinguish the Persons that were really the Competitors, from those of the same name; the not doing this rightly hitherto, has occasioned many mistakes in our Historians, when they treat of this Question, and so obscured the true matter of Fact, which ought still to be cleared e're we come to discuss the Point of Right, that it's with no little trouble one can come to the true knowledge thereof.

It's therefore to be well adverted, that among several others, there were three *Robert Bruce's*, to wit, *Robert* Sirnam'd the Noble, who married *Isabel*, second Daughter of *David* Earl of *Huntington*; then there was *Robert* Earl of *Carrick*, who was the eldest Son procreat betwixt them and *Baliols* Competitors, but dyed e're he was King: In the third place there was *Robert de Bruce* his Son, by the Heiress of *Carrick* his Mother, who was King *Robert de Bruce* the First.

As to the *Baliol* (the Reader will be pleased, for clearing the matter of Fact, to make the like distinction of Persons) there were then
one

one *John Baliol*, who married *Donagilla* eldest Daughter to *Allan* Earl of *Galloway*, and by her had a Son call'd *John Baliol*, who was *Bruce's* Rival for the Crown; and then there was one *Edward Baliol* his Son, who the time of King *David Bruce's* Minority, was made a *Fidei Commissary King*.

The true state of the Question (which is altogether mistaken by *Johannes Major*, and *Buchanan*) was, That upon the Death of *Alexander* the Third, the *Maid of Norway*, who (as was formerly observ'd) was to have been Married to *Edward* the First's Eldest Son, but she dying e're she Married, King *William's* whole Issue was extinct; which made the Right of Succession be devolv'd upon King *William's* Brother the Earl of *Huntington*, who, as was before remark'd, had three Daughters, whereof *Margaret* the Eldest was Married to *Allan* Earl of *Galloway*, who by her had likewise three Daughters, whereof the Eldest, *Donagilla*, was married to *Baliol*; and the said Earl of *Huntington's* second Daughter *Isabel* being Married to *Robert de Bruce*, of which Marriage there was a Son called *Robert de Bruce* Earl of *Carrick*, who by getting the Heiress of *Carrick* to Wife, had by her King *Robert de Bruce*, as was above-said.

The Question then arose, Whether *Robert de Bruce*, who was Grandchild to *David* Earl of *Huntington*, by *Isabel* his second Daughter, or *John Baliol*, who was the said Earl of *Huntington's* Great Grandchild, by *Donagilla* his Mother, and eldest Daughter to *Margaret* the said Earl's eldest Daughter, should be Sovereign Lord and King of *Scotland*? *David* Earl of *Huntington* being the *Communis Stipes*, both Parties,

Parties were obliged to claim their nearness to him, tho' he was never King, only Brother to King *William*, as was said, and came in failing Issue of him. As *David* if he had been living, had undoubtedly succeeded, being he was Great Grand-Uncle to the Maid of *Norway*; so the Person in Law that represented *David* must needs have been the true Heir.

Although the matter of Fact which was so much and so long obscured, be thus set in its true and native Light (at least so far as I could learn) yet in this Competition it was hard to determine which of the two had the best Right, there being no express positive Law here in *Scotland* determining the case, nor no constant uninterrupted Custom or Tract of Decisions, to lead the judges for proceeding equality in it; only every one was to follow what his Reason best suggested to him, as is common with People that have not the good fortune of a *certum jus* for to direct their Judgments, and to square their Actions thereby: And therefore tho' one should give his own Sentiments of the matter, without any ill intention to the Publick, he is to be excused, as I hope I may be, if I should now affirm, that in the aforesaid litigious Competition, the *Baliol* appear'd to have the better of it, if he had not done things which made him lose his Right and Title in the common Construction of Law, being that we had no *Salique* Law here, as in *France*, to the Exclusion of Females. By the Emperor *Justinian's* Rescript, they are called the accusers of Nature, that introduced the distinction of Male and Female in the point of Succession, so as to furnish bad consequences from it; *Cur non* (says he) *totos masculos generavit.*

Leg. 4. Cod. ravit. lib. praterit. If then by the Text of the Civil Law it is thought unnatural to make a distinction of Sexes in point of Succession, certainly the *Baliols* title was preferable; especially since by the tract of our Laws and constant Customs the right of Representation was still admitted among us. And that King *Kenneth* the Third's Law substituted Females failing Heirs Male, *Neque enim Sexum in Imperio discernunt*, saith *Tacitus*, speaking of the *Britans*; it is not then much to be wondred, that one should think the ones right preferable to the other; yet by *Baliol's* base and unwarrantable Deeds, contrary to the Fundamental Laws of this Nation, he made a fair way for King *Robert de Bruce's* coming to the Throne, and making his Right and Title to the Crown unquestionable.

The difficulty of deciding this Question was mainly occasion'd by the different Grounds in Law alledged for either side; the *Baliol* founding his Pretences to the Crown upon the Right of Primogeniture and Representation, allowable by our Law in the case of an apparent Heir to an Estate, did contend, that he had the more preferable Right, being he was Son of *Dona-gilla*, eldest Daughter to *Margaret*, who certainly was eldest Daughter to *David* Earl of *Huntington*, who, if he had been alive, would have succeeded to the Crown, and consequently he ought to have succeeded him, as being lineally Descended of him by the same Right of Representation; especially considering that the Right now in Question, was not so much to a Private Fortune, as to a Royal Crown, which in its own Nature is *Imperium individuum*, and the Right resulting from it being *Jus indivisibile*, and so not be communicable

cable to any other at the time ; tho' by our Lawyers leave here, I think that the Right of Representation whereby the Grand-child does succeed to the eldest Daughter, albeit this be Natural, and the presum'd Will of the Deceased, yet that can operate no farther, than that the Grand-child should be equal to the Son, with respect to the Degrees: For the reason of his being Elder and Younger, is meerly Personal, and does not Descend to Children, out of any natural Reason; but there must be a Law establishing such a Personal Right in favour of the Successor, by which he claims Right to succeed before any other.

On the other hand, *Robert de Bruce* contended, that he being the Son of *Isabel* the said Earl of *Huntington's* second Daughter, he ought to be preferred, because ordinarily in Law the Son of a second Daughter will be preferred to a Niece by the eldest Daughter, and all Descended of her, who could have no Right, but as representing her: And therefore he ought to be preferred to the *Baliol*, who by a Representation comes *in vice* of his Mother, whereas he was a Male, and consequently preferable to a Female in the same degree: And so reckoned, That if *David* Earl of *Huntington* their Common Grand-father, had succeeded to the Crown, and dyed King, he as *Nepos ex secunda Genita* was preferable to a Niece, or *Neptis ex prima Genita*, which I take to hold only in Kingdoms Patrimonial.

It's like that in that very same Age this Question being much tossed by Foreign Lawyers, encreased the difficulty still the more, and made the contending Parties the more ea-

ger to pursue their respective Claims: The Doctors splitting upon the Question, some of them maintained, That there was a Competition betwixt Male and Female, in the same Degree, the Male was preferable: Others maintained, That whoever was in the nearest Degree, had the more preferable Right; and so preferred a second Son who survived his Father, to the Grand-child by the eldest Son; which was more than the *Bruce* acclaimed.

(a) *Bartol.*
Cujac.

Baldus de
Sucess.

But as to our present Debate and Competition, the learned'st Doctors (a) determine for the Males being preferred, and the *Proximior gradu sive mas sive fœmina*, ought to be still preferred: Yet others rejected their Reasons, and affirmed the contrary; as may be gathered from the Opinions set down by learned *Vasquez*, and others. And as for what's obtruded from the Customs of several Kingdoms, Dutchies, and Empires, I leave that to *Buchanan* himself, who gives many Instances to prove the preference of the second Son to the Grand-child who was a Daughter, contrary to his own first Proposition. Having perhaps followed this intricate Point farther than I first designed, on purpose to inform my own Countrymen, as well as Strangers, who may not have had hitherto a true Idea of this important Question, which being wrong stated at first, hath occasioned great heats and no small Mistakes on all hands.

From all that's said, it would seem that the *Baliol* had much, if not more to say for his Right, than the *Bruce's*; and as *Livy* says, speaking of the contending Brothers of the *Allobrogi*, *Minorem Jure minus plus vi potuisse*, *Liv. lib. 31.* But by his precipitation and rashness in seeking

Part I. of Scotland and England.

51

ing Foreign Assistance, and subjecting the Imperial Crown of this Kingdom, to that of *England*, that he might be the more readily supplied by the King of *England* to overcome the *Bruce*, (who would never yield to him) he did thereby justly forfeit all Interest and Right he had to the Crown, and thereafter by a Resignation of all his Rights in favour of *Robert de Bruce*, he by that solemn Deed was fairly divested of all Title and Right he could ever pretend to for the future. And thus was King *Robert's* Title to the Crown made unquestionable, as is said; for he instead of subjecting the Crown to a Stranger and an old Enemy, as the *Baliol* did, by giving many Battles to the *English*, both in *Edward* the First and Second's time, whom he did overthrow with the whole Power and Force of *England* at the Battle of *Bannockburn*, did let the World see, that he was the true Deliverer of his Country, and so was justly preferred to the other, and that by a Law to him and his Posterity; which Divine Providence, by a continued Series of Succession, hath blessed on the Throne to this very Day.

Thus we see, that as by the impatience of *Baliol*, who ran into foolish inconsiderate Courses, which in the end proved his utter Ruin; so by the Constancy and Patience of that great Prince *Robert de Bruce*, and his firm Resolution to maintain and defend his Right, by a fortitude and intrepidness of Mind futable to his Princely and Heroick Genius, he could not miss to have a happy and a desirable Issue; whereas the poor despirited *Baliol*, by making Sale and Merchandise of his Peoples

Liberties and Properties, he thereby gave away that which was dearer to them than their Lives, and so cou'd not but be abandoned by them, and and a deep resentment of such an odious Act as that was, be legibly impress'd upon their Hearts and Minds, so as not only to make them withdraw their Affection from him, but also to fix their Thoughts on him, that contended for the Right with him, and who under God was their Saviour and Deliverer in their Extremity: the innate Trust and Confidence they conceived of his wonderful Prowess and Valour, and of his Fatherly Care of his Country and People, could not miss to cause them to encline to a Devolution of themselves and their Government into his hands, and to his Posterity after him. And tho' at first his Title was questioned, as not to be so valid, in strictness of Law, as that of the other, yet by getting voluntarily the Hearts and Affections of his Subjects, as well as their Lives and Fortunes, out of the Claws of a Foreign Power, and by the *Baliol's* Resignation thereafter, in his favours, he comes at length to settle and secure his Title upon such firm and lasting Foundations, that we see now easily transmitted to his Posterity, being ratified and confirmed in full Parliament.

In pursuance of that wise Law of *Kenneth* the Third, *Robert de Bruce*, after a terrible Carnage, setting himself in his latter Days to the study of Peace, settles by Act of Parliament the Succession to the Crown upon his Son (tho' a Child) and in case of his decease, upon his Brother *Edward*, and both failing, it centred in *Robert Stuart* his Grand-child, by his Daughter *Margery*, to whom succeeded *John*
his

his eldest Son, who fancying that Name ominous to Kings, would needs be call'd *Robert the Third*; upon whose accession to the Throne there arose mighty Debates; and here it was commonly thought that the Line of Succession received some Deviation, and that *David* and *Walter* were truly the Eldest lawful Sons of *Robert the Second*, and that he was only preferred by an Act of Parliament. Which Debate I conceive was occasioned by the ignorance and inrdvertency of our Historians, as Vid. Boet. well as that of *Bruces* and *Baliols*; and since this knotty Question is loosned to the conviction of all unprejudiced Persons, by the learned *Sir Geo. Mackenzie*, in his *Jus Regium*, and of late yet more clearly, (even to a Demonstration) by the Great and Learned *George Viscount of Tarbal*, now Earl of *Cromerty*, and Secretary of State for the Kingdom of *Scotland*, to his immortal Praise, I judge it altogether needless to take any further notice of it at this time, but remit the Reader to them to peruse at his leisure.

To this *Robert the Third* did King *James* the First his Son succeed, and to him King *James* the Second, and so downwards to King *James* the Sixth, of happy Memory, who succeeded not only to Queen *Mary* of *Scotland* his Mother, but also to Queen *Elizabeth* of *England*. And that I may make as plain a Scheme of the *English* Succession, and in as legible Characters as I have done that of *Scotland*, the Reader may be pleased to consider,

S E C T IV.

King James the Sixth's Succession to the Crown of England clearly Demonstrated.

THAT upon Queen *Elizabeth's* Death, the whole Issue of *Henry* the Eighth was extinct, whereby the Right of Succession was devolved upon the next apparent Heirs; and so the Line fell to those Descended of *Henry* the Seventh her Grandfather, King *James* the Sixth being Great Grand-child of Lady *Margaret*, eldest Daughter to *Henry* the Seventh, who certainly would have succeeded her Father, if he had dyed without Issue Male, and consequently King *James* Descending of her Loyns, wou'd have succeeded by the same Law of Representation: Thus tho' King *James's* Title and Right to the Crown was Recent and Obvious to all, yet such an alluring Bait was the Crown of *England*, that turbulent aspiring Spirits would needs bring other Rivals on the Stage to Dispute his Right, thinking thereby to jumble matters so that it might end in a Civil War. A contrivance of subtle Jesuits, and such like pestiferous Vermin, to unhinge the Reformed Religion then newly Established, and carry the old Popish Yoke again insensibly about Peoples Necks, which we nor our Fathers were never able to bear.

And that I may keep by my former Method, and to draw a Parallel Line, it will be proper, for the better avoiding all Debate in this matter,

matter, first to set down the Descendants of *Henry* the Seventh, to let the World see the unquestionableness of King *James's* Title to the Crown of *England*.

Henry the Seventh then had three Children by *Elizabeth* eldest Daughter of *Edward* the Fourth, to wit, *Henry* the Eighth, *Margaret* and *Mary*.

To *Henry* the Eighth first succeeded *Edward* the Sixth, by *Jane Seymour*, Sister to the Earl of *Hertford* (afterwards Duke of *Somerset*) who was his Third Wife; after whom succeeded *Mary*, who was his eldest Daughter, by *Katharine* the King of *Spain's* Daughter, and who was his first Wife; after her succeeded *Elizabeth* his Daughter, by *Anna* of *Bulloign* his second Wife. Now all these dying without Issue, the Right of Succession fell unto K. *Henry* the Seventh's Daughters, who were his Heirs of Line, whereof the eldest *Margaret* was marry'd to King *James* the Fourth of *Scotland*; which being once granted, the Descendants of the said Lady *Margaret* ought to have been preferred to those of the younger Sister (who was Married to *Lewis* the Twelfth of *France*, and thereafter to the Duke of *Suffolk*) not only by the Law of Nations, but also by the Custom of *England*, as in Queen *Mary's* Case, that succeeded her Brother *Edward*, without sharing the Crown with Queen *Elizabeth*, but also by its own Nature, it being an Indivisible Right in it self, and so not capable of any Partage or Division.

Thus the whole Right of Succession was derived on the Descendants of King *Henry* the Seventh's eldest Daughter, and so there could

be no Competition but only that betwixt King *James* and the Lady *Arabella*, the only Persons of that Line that survived Queen *Elizabeth*; who being in a like degree of Blood to *Henry* the Seventh their Great Grandfather, King *James* had the undoubted Right, as coming from the Lady *Margaret*, by her first Marriage with King *James* the Fourth, as aforesaid, of whom Descended King *James* the Fifth, and of him Queen *Mary*, Mother to K. *James* the Sixth. Whereas Lady *Arabella* was Daughter only to *Matthew* Earl of *Lenox*'s second Son, by Lady *Margaret Douglas*, Daughter to *Archibald* Earl of *Angus*, who was the same Lady *Margaret*'s second Husband.

But this Lady *Arabella* died afterwards in the Tower of *London*, without any Issue; which takes away all Debates as to her part.

The Enemies to our King's Succession to the Imperial Crown of *England* being forc'd out of this Hold, they obtrude not only several Grounds of Law, and Acts of Parliament, against his Succession, but also brought in several Competitors, as Descended of the Royal Family.

The Arguments from Law adduced by them to colour their malicious Designs, are the Statute 25 of *Edward* the Third, by which all Strangers are debarred from succeeding to any Inheritance in *England*. The next is the Statute of Association, being the 27th Act of Queen *Elizabeth*, whereby it's declared, That 'any that should procure or attempt the Death of the Queen, should forfeit the benefit of Succession to the Crown: Which last Statute I find is much made use of by that execrable

Vide *Baker's Chronicle*.

crable Rogue Master *Parsons* the Jesuite, in his Treatise that then came forth. (a)

(a) *Doleman*
A Conference touching the Succession.

But the Ignorance as well as the Malice of that Jesuit appears in this; for he hath forgotten, at least would not remember, that this Statute was made purposely against Queen *Mary of Scots*, a year before her Death, and upon which her ditty was founded; and so cou'd not be well obtruded upon King *James*, seeing he was then in a constant Friendship with the Queen, and much beloved by her: And as an evident Mark of her Affection to him, she declared, ' That he was not only Heir of ' the Crown of *England*, but by her latter ' Will ordained he should be the Person that ' should succeed to her. And if Queen *Mary* was any way privy to *Babington's* Conspiracy, which was contrived on purpose to introduce the *Romish* Religion, and to kill Queen *Elizabeth* (which yet could not be proved against her) why should that be made an Argument against King *James's* Right and Title to the Crown, he being altogether innocent and a perfect stranger to the horrid Plot; and the Judgment given against Queen *Mary*, makes no mention of forfeiting her Right, much less that of her Son King *James's*, who wisely overlook'd the unpresidential Treatment the Queen his Mother met with; which as it could not but render him gracious in Queen *Elizabeth's* Eyes, so it made the way to his coming to the Throne the more easie and patent: Neither did the Parliament ever insinuate any thing to the prejudice of his Succession, but made the taking away Queen *Mary's* Life to be a Reason of State, to cover the distrustful Fears and Jealousies she conceived against this unfortunate Princess;

(a) Vid. *Spotswood's Hist.* Princess; and King *James* offering that his Mother should resign her Right to the Crown of *England* in his Favour, might let this Jesuit see how innocent he was, and fearless of being put from his just Right.

Unto the Statute of *Edward* the Third, it is Answered in general, That by the Rubrick or Inscription of that Act, only mention is made of such Persons as were born beyond Sea; nay in the Statute it self it is likewise so provided; and so ought to be Interpreted by the Statute of *Edward* the Confessor, *beyond Sea*, that is, *extra quatuor Maria*; nor does that Statute exclude any from enjoying Privileges by Succession that are born (as their Law terms it) out of the Allegiance of *England*, *extra Angli-*
 (b) Quarto & Quinto *Elizabeth.* *cum*, as *Plowden* tells. (b) And therefore such as reside within the four Seas, as King *James* did, cannot be said to be excluded by this Statute, it being a Rule in Law and common Reason, that the Exclusion of the one, is the Including of the other; and by consequence since it's thereby declared who are Excluded, and no mention made of the *Scots* Line, or *Scotsmen* succeeding to the Crown of *England*, I must conclude they are not excluded, & *casus omissus pro omisso habetur*, says the Law. But pray why was *Henry* the Second, Son to *Geoffrey Plantaginet*, and *Stephen* Earl of *Blois*, who were both Strangers and Aliens by Birth, admitted to succeed to the Throne of *England*? Nor is it to be thought, that *Edward* the Third did intend to debar so many descended of him, by that Statute, and subvert a Fundamental Right, unless it had been made on purpose to exclude them, or made to derogate from the old Law of *Edward* the Confessor;

nay

nay by latter Statutes in the Reigns of *Edward* the Fourth, and *Henry* the Fourth, strangers have liberty to purchase Tenours, and their Heirs to inherit them, as if they were real Natives of the *English* Soil.

From which plain Answers it's evident, That no Right or Law cou'd make King *James's* Right void.

There is another Topick made use of by them; and it is of *Henry* the Eighth's appointing his Successor by Testament, and confirmed to him by Act of Parliament, which Power accordingly he made use of, and ordained the House of *Suffolk* to succeed him, failizing Heirs of his own Body. Unto which may be answered likewise in general; That the Testament was null in it self; being it was proved that the Stamp was counterfeited after his Death. An Act of Parliament could only have force if he had survived the Children procreate by him; for it's against the common Notion in Law, that a Person shall appoint Heirs when there be Heirs Existing that do succeed him, which is not to be done barely *per modum Testamenti*, but by an expresse Entailment, ratified and approved in Parliament. And if this by Testament be a habile way of Transmision of Royal Rights and Dignities, then the Argument is easily retorted, by telling them, That Queen *Elizabeth* by her latter Will did ordain the said King *James* to succeed her.

Thus it's to a Demonstration clear, that of all the Descendants of *Henry* the Seventh, our King *James* was incontrovertibly the true Heir of the Crown of *England*; and so preferable to all the Candidates of the House of *Suffolk*: For
 albeit

albeit there was an elder Sister to Lady *Katharine*, to wit, Lady *Jane*, who was Married to *Guilford Dudley*, Son to the Duke of *Northumberland*, and *Mary* the youngest, who was Married to Master *Martin Keyes*, Gentleman Porter, yet they both died without Issue.

When all these Topicks failed, King *James's* Enemies they revived the Mighty Competition betwixt the Houses of *Lancaster* and *York*, and concluded, that whoever had the best Right must have it, not only to one another, but to King *James* also; so that King *James* was to be kept out *viis & modis*.

And now to obviate this Error, it may be proper to premise something about the Descendants of *Edward* the Third, and *Henry* the Third, at least in as much as is proper to the present Question.

Henry the Third had two Sons, *Edward* and *Edmund*; *Edward* succeeded to the Crown, called the First of that Name, and after him *Edward* the Second; then *Edward* the Third succeeded in a direct Line; his Son *Edward* the *Black Prince* dying, his Son *Richard* the Second succeeded, who was Deposed, and dyed without Issue, whereby all that Line by the eldest Son failed; and so the Dispute about the Right of Succession betwixt the Houses of *Lancaster* and *York* took its rise. His second Son was *Edmund*, who had a Son called *Henry*, and Grandchild to *Henry* that succeeded, and who had but one Daughter, called Lady *Blanche*, Heiress of all that Fortune.

Edward the Third had five Sons that had Issue, to wit, the *Black Prince*, *Lyonel* Duke of *Clarence*, who left but one Daughter, called *Philippe*, who was Married to *Edmund* Earl of *March*,

Part I. of Scotland and England.

61

March, who left a Son called *Roger Mortimer*, and he had *Anne Mortimer*, sole Heiress of *Clarence*, married to *Richard* then Duke of *York*, of which Marriage was *Edward* the Fourth.

His third Son was *John of Gaunt*, who first married Lady *Blanche* the sole Heiress of *Lancaster*, by whom he had for his Son *Henry*, who being Duke of *Lancaster* was the first of that Family that was King, nam'd *Henry* the Fourth, of whom Descended *Henry* the Fifth and Sixth in a direct Line; but the latter being Deposed, way was made for *Edward* the Fourth, the first King of the House of *York*. He had also by Lady *Blanche* two Daughters, the elder *Philippe*, married to the King of *Portugal*, and his second *Elizabeth*, married to Sir *Thomas Nevil*, of whom are Descended the Earls of *Westmorland*.

John of Gaunt by his second Marriage with Lady *Constance*, Daughter of *Peter* King of *Castile*, had but one Daughter, and was Married back again to *John* of *Castile*, Nephew to King *Henry* the Bastard, who Killed and Deposed her Father *Peter*, by which stroke that quarrel was ended.

John by his third Marriage with *Katharine Sumford*, Daughter of a *Flemish* Knight, Sir *Payne Ruer*, had three Sons and a Daughter, which were Legitimate by Act of Parliament, & per subsequens *Matrimonium*: The eldest of them Sons, *John*, had only one Daughter, who was Married to *Edward Tidder*, Earl of *Richmond*, of whom was *Henry* the Seventh of *England*, who marrying *Edward* the Fourth's eldest Daughter *Elizabeth*, joined the white and red Roses, and left their Posterity to be the undoubted Heirs of the Crown; and of them is lineally

lineally Descended our King *James* the Sixth.

Henry had by her also a Daughter call'd *Elizabeth*, who thereafter was Married to *Ralph* Earl of *Westmorland*. So that Family is twice out of the House of *Lancaster*, and is the sole House in *England* lineally Descended of Lady *Blanche*.

Edward the Third's fourth Son was *Edmund Langley*, Duke of *York*, who had two Sons, *Edward*, who died without Issue, and *Richard* Earl of *Cambridge*, who married *Anna Mortimer*, who was Heiress to *Lionel* Duke of *Clarence*, as before noted, and by her he had *Richard*, who succeeded his Uncle in the Dutchy of *York*, and was the first that ever Debated for the Crown; but being slain in the Quarrel, he left three Sons, *Edward*, who was thereafter King, by the name of *Edward* the Fourth, *George* Duke of *Clarence*, and *Richard* Duke of *Gloucester*, who by Murdering *Edward*'s Brother's two Nephews, was after made King.

Edward the Fourth had but one Daughter; she had *Elizabeth*, who was married to *Henry* the Seventh, as before observed.

Edward the Third's fifth Son was *Thomas* of *Woodstock*, first Earl of *Buckingham*, then Duke of *Gloucester*; who had but one Son *Humfrey* Earl of *Buckingham*, and two Daughters, whereof one was married to the Earl of *Straford*, and the other to the Lord *Talbot*.

There are other Families descended of this House of *York* besides *Richard*; for the said *Richard*'s second Son was *George* Duke of *Clarence*, as is said, who had but one Daughter, and that was Countess of *Salisbury*, and who was married to Sir *Richard Pool*, of whom are Descended the Family of *Pool*: Of this Countess

are

Part I. of Scotland and England.

63

are descended the Lord *Montague*, as also the Earl of *Huntington*.

It might be thought, that here were pretenders enough brought on the Stage to Dispute our King's Right to the Crown, and who all alledged that their several Pretences were well founded in Law; but the Malice of these Seditious Writers could not be confined to *England*, but they must run over to *Spain*, and bring in that Monarch as pretending Right, that they might leave no Stone unturn'd, to advance the Popish Interest in *England*, to the secluding a Protestant Prince, to whom might be thought the Papists of *England* would have no small aversion.

It were here tedious to descend to all the Arguments brought by them, for proving *Philip* King of *Spain*'s Right to succeed; only in the general, being he is descended of *John* of *Gaunt*, and *Katharine*, *Peter* of *Castile*'s only Daughter, who (as was formerly observed) was married back to *Henry* the Third King of *Castile*, of whom the said *Philip* is lineally Descended, and so was Heir to the House of *Lancaster*, &c. They likewise founded his Claim upon the Right he had by Lady *Philippe*, who was Married to *John* the First King of *Portugal*, because he was descended of *Charles* the Emperor, who married *Emanuel* King of *Portugal*'s Daughter.

They bring also on the Stage the Duke of *Parma* and *Braganza* to be Competitors, as being descended of that *Emanuel* King of *Portugal*, and so preferable to the King of *Spain*: But all these pretences soon vanish, if we consider that those who were Descended of the House of *Lancaster* by Lady *Blanche*, or Lady *Philippe*,

Philippe, could claim Right only to the Dukedom of *Lancaster*, as a private Estate; which could never give them preference in the House of *York*, to the Crown of *England*; for the House of *York* being descended of *Lyonel Duke of Clarence*, elder Brother to *John of Gaunt*, of whom *Edward* the Fourth is lineally come, and our King *James* of him, by *Elizabeth* his only Daughter, his Right was not only preferable to the House of *Lancaster*, but to all others of the House of *York*.

Albeit all this be of undoubted Verity, yet such is the humour of Dispute and Contradiction in Lawyers and Schoolmen, who finding no Municipal Law or Custom deciding a Controversie of this Importance, did Dogmatically give their Opinions according to the different Interests that then swayed them; for in this very same Point the Doctors did vary from one another, as in the Case betwixt the *Bruce* and the *Baliol*; *Bartol* had *Baldus* to oppose him, and in *England*, *Fortescue*, then Lord Keeper, and Sir *Thomas Thorp*, Lord Chief Baron of the *Exchequer*, two eminent Lawyers, maintained the Title of the House of *Lancaster*, before that of *York*, upon far-fetch'd Arguments drawn both from the Civil and Feudal Laws: By the Feudal Law they wou'd allow no Right of Representation in Royal Fews, but the nearest degree the time of their Predecessor's decease, to succeed: And therefore *Henry* the Fourth being the Grand-child of *Edward* the Third, who was the *Communis Stipes*, or Stock wherein both the Houses of *Lancaster* and *York* were engrafted; he was still preferable to *Anna Mortimer*, and all those descended

Descended of her of the House of *York*; she being but Great Grand-child to the said *Edward* the Third.

In the next place, they said, " That allowing Representation in this Case, the House of *Lancaster* ought still to be preferred to that of *York*; because *Lyonel* Duke of *Clarence*, by whom the House of *York* claimed preference, died before his Father *Edward* the Third, and left only one Daughter, as before was observed: And therefore *John* of *Gaunt* surviving him, and being Male and in the next Degree, ought to be preferred to a Grand-child and a Female, as was *K. Edward's* Daughter. This their Opinion they confirmed not only by the Authority of *Bartol. Cujac. Decius*, and other eminent Doctors, but also from the very Text of the Civil Law, and the Laws of the Twelve Tables, (a) and from the Custom and Practice of other Nations. But it's like they did not reflect on the 118 Novel made by the Emperor *Justinian*; which plainly Innovated and Changed all that Order of Succession, and brought in all alike; *Sive ex Filio aut Filia, nullo discrimine sexus, Reginam scit ferre* Which shews how much, even the Learned'st of Men, when Wedded to their own Interests, are blinded in the common Principles of their own Employ and Profession: Which as it Demonstrates the Power and Force of Truth, so by these strong Oppositions made to our King's Right and Title to the Crown of *England*, they did, according to the Philosophers Maxim, make his Right appear to others the more unquestionable and clear.

(a) Vide
Sif. Sect. 2.
Institut. de
Hered qual.
& differ.
Theophil.

And therefore since our King *James* was the undoubted Heir of both the Houses of *Lancaster* and *York*, and joined both the *Roses*, and as descended of *Elizabeth's* eldest Daughter, that was married to *Henry* the Seventh, who was acknowledged the only Heir of *Edward* the Fourth, his Right and Title is now set beyond all possibility of Contradiction and Debate.

Nay, to go a little farther, supposing his Interest and Right of Succession to both these Houses had been laid aside, and all descended of *William the Conqueror*, yet King *James's* Title would be still good to the *English* Crown, being lineally Descended from *Margaret*, who was married to *Malcolm Canmore* King of *Scotland*, whose Mother was the only Heir of the *Saxon* Monarchy, and Daughter of *Edmund* who was *Edmund Ironside's* Son. And that very learned Antiquary, Sir *Henry Savil*, lays so great Stress on our King *James's* Pedigree and Descent from their old *Saxon* Kings, that he plainly says, "The *Normans* after King
 " *Henry* the First of *England*, was married to
 " *David* King of *Scots's* Sister, who was Great
 " Grand-child to *Ethelredus* King of the *Sa-*
 " *xons*, by his Mother *Margaret*, who was
 " married to *Malcolm Canmore*, as was now
 " observed; founded their Right to the *En-*
 " *glish* Crown upon that Title; and which
 " they thought did greatly strengthen their
 " former Claim and Right. We are also in-
 formed by History, That our King *James*
 was the lineal Successor of the Blood Royal
 of *Wales*; for *Walter Stuart*, of whom King
James's Predecessors are Descended, was Grand-
 child to the King of *Wales*, by his Daughter;
 and

and it is from *Wales* that the name of *Stuart* came to *Scotland*; and *Henry* the Seventh whom King *James* succeeded by lineal Descent, was the righteous Heir of *Cadwallader*, says Sir *Richard Baker*.

I had almost forgot to have noted how *K. James's* Succession to the Antient *Britans* came; for *Aurelius Ambrosius* was by the unanimous Consent of all chosen their King; he had only two Daughters, *Ann* Married to the King of the *Picts*, and *Ada* to the King of the *Scots*; which two Marriages made the Succession of the *British* Line be divided between them: But a little after the King of the *Picts*,* having* *Hungus*, but one Daughter, she was married to the King of the *Scots*; by which the *British*, as well as the *Pictish* Succession was absorbed by the King of the *Scots*; and so our King fell naturally in to be their Successor. Our King was also Successor to the *Danish* Race that Conquered *England*: as we are informed by their *Danish* Historian.*

* *Crantzius*

Thus upon our King *James's* Accession to the *English* Throne, all these Clouds of Objections invented by Seditious and Malevolent Spirits, were soon Dissipated; and by the old *Saxon*, *British*, and *Welsh*, as well as from that of *Henry* the Seventh, our King *James* made all the remote and different Lines of Succession concenter in his Person, and thereby did fairly Unite both the Kingdoms of *Scotland* and *England*: Which complication of Titles and Concentricity of different Lines, made his Succession be truly term'd *Unionum Unio*.

It needs not then be much wondered, that we have not been so forward here in *Scotland* as our Neighbours were, in declaring a Suc-

cessor to the Throne, failing Issue of her present Majesty (which God forbid) when we consider what is above represented of the Royal Line and Succession of our Kings, which God in his good Providence has for such a long Series of Years continued with us, in spite of all the subtle Artifices formed by ambitious Self-designing Men to cut it off: Nor that the *Scots*, who in all Ages thought it their greatest Honour to maintain and preserve the Dignity and Majesty of that Antient and Heroick Line, should be now shy and wary in a Point of so great Importance to them and their Posterity. Nay some are of Opinion, that by the *Scots* not declaring themselves as yet in this Point, they seem to have much the advantage of the *English*, in the present Argument of an Union; being they are at liberty, whilst their Neighbours are already tied up: Which puts them in a fair way to expect better Terms, not only for themselves, upon Devolution of the Crown, but also for the *English*, who cannot now expect any other than what they have already received; and consequently any benefit in the Point of Succession, by the intended Union, will accrue and redound more to them, than to the *Scots*; since the Conditions expected are but the Results of a more mature Deliberation. And therefore if the *Scots* shall now Unite with the *English* in the Point of Succession, it's a Complement they never hitherto paid to any Nation, much less to that of *England*, who received their Kings from them: Nay in all the former Treaties of Union, the Point of Succession was expressly Reserv'd; nor would the *Scots* ever agree to an Union of both Nations under one Sovereign Head, but on the
true

true lineal Descent of King *James* the Sixth; which occasioned my dwelling so long upon it in the former Pages, hoping thereby to induce our Honorable Commissioners to hold firmly by it in all Events, after the laudable Example of their Predecessors.

Having in the two former Chapters and Sections severally depending on them, given you the several Divisions of Leagues and Unions used in Antient and late Times, with the Number, Nature, and Original Signification thereof; and then of the Disposition and Inclination that was in both Nations, notwithstanding the diversity of their Original Tempers and Natures; and some Reasons offered how all this might be drawn from Topicks Natural, as well as Artificial; and particularly of the great Inclination and Desire that the *English* Nation had to Unite with the *Scots*, as well before as after King *James* the Sixth's Succession to the Throne of *England*; which led me the more particularly to consider his Succession to these Kingdoms in the former Pages; being he was the *Lapis Angularis* (as my Lord *Bacon* is pleased to term it) in whom the different Interests and Pretences of contending Parties, like stones of a different Shape and Figure in a Wall, were knit and cemented together. These then being the Causes of Peoples Uniting, we now proceed, for Method sake (so far as the Subject will bear) to consider the Effects and Consequences thereof.

C H A P. III.

Of the good Effects of a Legal Voluntary Union, particularly with respect to the Inhabitants of Great Britain.

AMong the many other Advantages by which this Union by a Legal Descent and Rightful Succession does surmount that of Conquest, this is one considerable; That the one Allures and Cements the Minds of People, by methods gentle, peaceful, and easie in themselves; whereas in the other we only feel the dismal Effects of a masterful Domination tending always to Slavery: In the one there is a noble Union of Minds, in the other only at most of our Bodies and Estates; which visibly appear'd not only in the seeming Union between the *Scots* and *Picts*, but also in that of the *Romans* with them, who by the frequent Inroads made upon them by the *Scots* and the *Picts*, they deserted, *pro Derelicto*, all at last, throwing it away from them as Mariners in a Shipwreck do their Lading or Cargo. But an Union that's carried on by legal Methods, and the free Consent of the Parties Uniters, hath a more solid Basis and Foundation, whereby it becomes the more Permanent and Durable, and the better Cultivated by Posterity. Who will not readily in good Manners deny the Prince, that has the luck thus legally to succeed to a Crown, to let his antient Native Subjects share with him in his Fortunes?

This Thought is so Natural and Just, that I find no sooner did King *James* mount the Throne

Throne of *England*, than he, by the Advice of his Privy-Council and the Judges of *England*, Issued forth a Proclamation, notifying to all his good Subjects, ' That it was most Just ' and Reasonable, that such of his Native ' Subjects of *Scotland*, as were Born in *England* ' after his Accession to that Crown, should ' have the Benefit and Priviledge of Purchasing Free-holds, Tenours, or Inheritances in ' the Dominions of *England* and *Wales*: And these were by the Lawyers called *Postnati*; in whose Favour several leading Cases and Important Decisions were set down. But for those that were Born in *England* before King *James's* Succession to that Crown, they were reputed Aliens, and so not capable of enjoying Lands and Heritages there.

Hereupon the Question of the *Postnati* came to be fairly canvas'd in the Exchequer Chamber, before the Lord Chancellor and all the Judges of *England*; and gave occasion to that Prodigie of Learning Sir *Francis Bacon*, afterwards Viscount of *St. Albans*, to publish the Discourses he had then in presence delivered of the *Postnati* of *Scotland*, of Naturalization, and a third Discourse of the Union of Laws; all which I may suppose are at this time in every Bodies hands; and according to the Uptakings and Apprehensions they may have of them, may be severally considered by them, and as their Humour and Interest leads them; and I hope, among others, I may be excused, if I here give mine, with all Respect, to that Worthy and Noble Personage, whom all the Learned World must needs have in Esteem.

That I may then, as near as possible, follow his Method in treating of these Particulars, I shall divide this Chapter into the following Sections. And First :

S E C T. I.

Of the Postnati, and the Division of the Ability of Persons, as is set down by the fore-cited learned Author.

IT may well be supposed, that in a Matter of this Importance, the wise Council of *England*, and the learned Judges thereof, would never have advised King *James* to emit such a Proclamation, if they had not first concluded with themselves, that in the several Distribution of Persons into Friends or Strangers, (largely treated of by the fore-named learned Author *) and their respective Capacities to enjoy such Priviledges, was properly a Royal Act, with which their King is still Invested by his Prerogative, without any consideration of Law or Act of Parliament enabling him to it : For pray, is it not the King himself alone, that makes a stranger of any Country an Enemy, by Proclaiming War against that Kingdom or State from which he originally came, and not the Law, nor yet the Parliament. Thus the King grants safe Conducts, with which neither the Law nor the Parliament have any thing to do : And as the King makes a Stranger-Enemy, so likewise by vertue of the same Royal Act, he makes an *Alien-Amis*, or a Stranger-Friend, by concluding a Peace with-

out

* *Ld. Bacon.*

out any Regard to Law or Parliament at the time. Does not the Sovereign make a Citizen by his Charter, and that by his Prerogative Royal? And consequently these Classes of Persons, and Distributions of Degrees, so largely insisted on by my Lord *Bacon*, do entirely depend upon the Sovereign's own Act.

This will be the clearer, when I here set down the Distribution and Ranking of Aliens, according to the Method and Division made by him in the fore-cited Discourse, *page 11. & seqq.* who ranks all sorts of Persons into four Degrees, whereof two he makes Aliens, the other two Subjects, *page 12.* ' Aliens are ' either Alien Enemies, that is, one that's ' Born under the obeysance of a Prince or ' State that is in Hostility with the King of ' *England*; and if he comes into the Country ' without a safe Conduct, he is looked upon as ' a Spy, and proceeded against as an Enemy. And so he interprets the *2 Rich. 3. fol. 2.*

' The next is Alien-Friend; that is, one ' that is Born under the obeysance of such a ' King or State that is in Friendship and Confederacy with *England*, at least not in War ' with him: This Person albeit he has Protection by the Law, it's but for a time; for ' the Law has but a transitory Assurance of ' him, that he may not afterwards turn an ' Enemy, and therefore the Law gives him ' but a transitory Benefit, by allowing him ' Right to apprehend Moveables, and pursue ' Personal Actions, but disables him altogether ' from having right to Freehold or Heritage; ' according to the *9th Edw. 4. fol. 7.*

' The third Person is a Denizon properly ' so speaking, and is an Adopted Subject, and

‘ is never by Birth, but by the King’s Charter ;
 ‘ and tho’ he purchase Lands, &c. and convey
 ‘ them to his Children, yet he cannot derive
 ‘ any Title from any Ancestor before the time
 ‘ of his Denization, upon the supposition that
 ‘ he might be an Enemy; which a natural Born
 ‘ Subject could never be, and so is not to share
 ‘ in equal Priviledges with him.

‘ The fourth and last Degree is of a natural
 ‘ Born Subject; which still is by Birth or by
 ‘ Act of Parliament, and who never were Ene-
 ‘ mies, nor can be in time to come ; and these
 ‘ (he says) have the full benefit of Naturaliza-
 ‘ tion. Thus Naturalization is best discern’d
 ‘ in the Degrees whereby the Law doth ascend
 ‘ thereunto.

* *Bacon.*

‘ The Question then Propounded, is not con-
 ‘ cerning Two Kingdoms United under one
 ‘ Law and one Parliament, but whether this
 ‘ Priviledge or Benefit of Naturalization, be
 ‘ an Accessory of that which is one, or upon
 ‘ that which is several. This he calls the
Depth of the Question * : But since he, with the
 learned Lawyers of that Nation, have confined
 their Thoughts, as well as their Studies, purely
 to their own Municipal Laws and Customs, and
 drawn their Consequences only from them, I
 judge it not amiss here, for the Readers greater
 satisfaction, to open the Fountains from whence
 this Priviledge or Right of Naturalization doth
 Spring; and either it flows from the Civil Law
 (which we in our Acts of Parliament call the
 Common Law) or from the Feudal Law.

S E C T. II.

Of Naturalization in its Origine according to the Civil and Feudal Laws.

1. **T**hen from the Civil or *Roman* Law, whereby Aliens or Strangers were brought in to be Free Denizons or Citizens, and enjoyed the same Priviledge as if they had been originally such; thus we find the *Jus Civitatis* among the *Romans* related properly to Strangers, says *Sprieg.* (a) It was likewise termed by them *Jus Albanati* by a contraction of the Word, *Jus alibi-nati*, which was frequent with the *Romans*, in the case of admitting Strangers; who if they were not *Civitate donati* and enabled to hold their Tenures and Inheritances, by the received Laws of the Land, the Exchequer did succeed to them, & *seebant caduca*; hence it was that the Princes Edicts for habilitating Strangers were called *Literæ Naturalitatis*, or Patents for Naturalizing Strangers, whereby these that were to be thus privileged obtained the very same Priviledges and Immunities, that the native born Subjects of the Kingdom had. (b)

2. From the Feudal Law which is generally recited in Forreign Countries, and built upon that Principle, to wit, that because Feuds are granted by over Lords or Superiors meerly that their Clients or Vassals shall serve them upon all occasions, against any Person whatsoever, and never reveal their Secrets, nor yet conceal any thing they learn that may tend to their

(a) *Vide St-
gon. de An-
tiq; Jure
Civ. Rom.
lib. 1.*

(b) *Vide
Conan. lib.
9. c. 4. n. 7.*

*Vide Arui-
serum, c. 6.
p. 158.*

Vide Hot-
toman.

their detriment and loss; they therefore conclude, that no Man can be Vassal or Leigeman to more Superiors equally Supreme, because of the incompatibility of these Duties to be performed by them; for these Superiors may come to make War upon one another, and thus distract the Allegiance or Duty of the Vassal, that he knows not well whom to serve, especially when he swears Fealty to his natural Prince and leige Lord, and because Persons are more readily enclined to serve their native Prince, than any other under whom they may happen to live; therefore such Strangers are always most subject; which is the reason for hindering them to sell their Feuds, or they shou'd carry the price of them away out of the Country, and perhaps employ them against the same Country, which principle of the Feudal Law seems very agreeable to that of the *Roman* Law already mentioned.

Huber. digress. lib 3.

Now to answer to the Question as before stated by my Lord *Bacon*, I say albeit the Laws of both Nations be not the same but different; yet that should not hinder *Scotsmen* to be Naturalized in *England* or Incorporated with them, since they are Subjects to one natural Prince; and so in construction of Law to be esteemed, but as one People; for if a Person may be a Subject of two different Countries, and enjoy the Offices and Priviledges due to native Subjects of both, as well as they that were born in them, (which is yet denyed him by the *Roman* Law) how much more ought this Benefit be granted those that live under one Sovereign Head, tho' they may be regulated by different Constitutions and Laws? And that a Subject may be thus trusted, and enjoy such Priviledges, is what's maintain'd by some

some of the learned Doctors that treat of the Publick Law. Nay by the *Roman* Law it self, he that goes out of one Kingdom to another, is still esteemed a free Subject or Citizen in the Place he first resided, and was born, and he is only to be considered in the Kingdom he dwells to be but as an in-dweller or *incola παροικὸς*. So I find a distinction to this purpose made use of by the *Roman* Lawyer *Scævola*. (a) The *Romans* do likewise distinguish between *Civis* (a) L. 29. F. ad municip. l. 139. F. V. S. Guidæus hic. Vid. A. Gell. l. lib. 6. 13. *municipes*; but in my opinion such distinctions are useless among us who live under one Head, and so to be considered as one Body Politick; indeed if a Subject or Citizen of *France* or *Spain* should plead for this Privilege, it would be altogether contrary to this Doctrine, and against Reason it self, for one Man to have the Privilege of being a free Subject of two different Common-Wealths, under two different supreme Heads; is as unreasonable as if one and the same number cou'd be such, of two different natural Bodies. And therefore if we rightly understand the Principles of the *Roman* Law, we shall find little, or no difference; and if there be any, it's rather in the manner of speaking, than in the thing it self; and to understand them in *Cicero's* Sense, (b) who says, That he had two Native Coun- (b) Lib. 2. de legib. tries, one where he was born, the other which gave him the Right and Privilege of being a *Roman* Citizen, and the Laws invented by the *Roman* Common-Wealth were not so properly Laws founded upon the Common Reason of Mankind, as certain privileged Customes observed by them for aggrandizing their State, and therefore Arguments drawn from them do not so much concern Mankind in our time; for we make no distinction naturally be-
tween

L. 32 F. de *twixt Man and Man, that one should be Free,*
 Div. Reg. *and the other a Slave; nor do we make any account*
 Fur. *of the Patria potestas or degrees of Liberty, but*
 Φῦσις ἅ *consider Mankind as in its first formation, upon an*
 ἄρτις ἄ *equal level, and that all Men are originally free*
 λθ eye- *born Citizens of the place they live in; tho' for the*
 ὑπόψ. *better and more regular Government of the World,*
 risto. *some Natures are more fitted, and adapted by the*
 1 Polit. 3. *wise Author thereof, to serve, and others to govern,*
 Edit. Hein. *and command; and as by Nature we are all Free,*
 fil. *being made of one common lump or mass, so our*
having the same Signature, and Image of God, no
original difference among men can well be pretended.
Thus Mankind being set in one original State of
Freedom, it may be reasonable to think, that they
may traverse the World, and go from one City or
State unto another, as their Exigencies require,
providing they do not disturb the Place or Govern-
ment under which they mind to live. And there-
fore that Question so much debated by the
Doctors, to wit,

Whether a Person born (in this Kingdom of
 Scotland for example) may upon some exigen-
 cy remove out of it, and settle in another
 Kingdom, and convey his Allegiance, with all
 his Effects thither? naturally falls in here to be
 considered. Those that stick to the *Roman*
 Laws, and the Ancient Priviledges of the *Ro-*
man City, maintain the Negative, and affirm
 that one Man cannot be the subject of two
 Kingdoms or Common-Wealths, unless the
 former distinction of being a Citizen in one,
 and an In-dweller or *Incola* in another (c) be
 made use of; and, they say that any Person
 may translate his *Domicilium* or House and Ef-
 fects from his Native Country providing he
 still acknowledge himself a Subject of the Place

(c) See Al-
 ciatus.

he first came from, and was not forbid, so *Marcellus* (d) determines; and a Man may be an (d) L. 3. F. In-dweller or Inhabiter of several Cities, (e) *ad municipi-* yet I find the learnedest *Roman* Lawyers, as (e) L. 34. *Cicero* and *Pomponius Atticus* stuck more strictly F. ced. to the Priviledges of the *Roman* Laws, and Cicer. pro. tell us of the Impossibility of ones being a Citizen of two different Cities, and that he no sooner goes out of the one, than he loses his Burgefs-ship or Priviledge in the other in which he was at first: Thus you'll find *Cicero* (f) as it (f) Orat. were in an extasie cry out, *O jura praeclara, pro Balio. atque divinitus, jam a principio Romani nominis a majoribus nostris comparata, ne quis nostrum, plus quam unius civitatis civis esse possit, dissimilitudo enim civitatum varietatem Juris habeat necesse est.* And that incomparable Lawyer *Atticus* refused the priviledge of a free Citizen in *Athens* lest it might be interpreted a losing his *Jus Civitatis* in (g) Cor. Rome, (g) and yet he seemed to have already nel. Nepos lost it, if we give credit, to the Quotation (h) ut Attici. which argued either a great timorousness, or (h) L. ult. more than an ordinary opinion he had concei- F. de cap. it. ved of the *Roman* Priviledge; which was so diminut. common among them, that they preferred their Country and the Subjection and Allegiance due to it, to that of their own Parents, whom no Person ought to forsake, far less their Native Country, so that they were still ready to dye for it; which made the *Roman* Orator elegantly run out in the First Book of his Offices, *Chari sunt liberi, propinqui, familiares, sed omnes omnium charitates Patria una complexa est, pro qua quis bonus dubitet mortem oppetere?* And tho' *Grotius* (i) affirms from the 22l. *ad municipal.* (i) De ju- and by the latter Laws of *Rome*, it was law- re Belli. ful for Persons to transfer themselves and their lib. 2. c. 5. Goods

Goods to other Princes Territories ; yet I
 (k) 4 and find that it was absolutely forbid (k) to any
 5 l. Cod. to change or abandon their Country without
 de municip. leave of their natural Sovereign ; to which
 & originar our Customes in Scotland agree, as may be seen
 in our Buchanan (l) where Allanus (m) could
 (l) Hist. not submit himself as subject to the King of
 lib. 8. England without the King of Scotland had first
 (m) Ro- consented to it. And it may be argued with
 landi filius some reason that private Subjects cannot by
 their relinquishing their Native Country be
 freed of the Obligation natural that's upon
 them, whereby they are still bound to their
 Native Prince and to their fellow Subjects ;
 which Obligation they would have to be per-
 petual, according to that Maxim in Law, *Quod*
primum est, voluntatis, postea fit necessitatis ; This
 reasoning, I confess may be allowable in Here-
 ditary and Patrimonial Kingdoms, where the
 Power over Subjects cannot be taken from the
 King, and so they cannot well run to another,
 which is the Case of the *Adscriptitii* in the Ro-
 man Law ; but in legal and voluntar Govern-
 ments it may not have such Forces unless there
 be a Law at first made forbidding Subjects to
 depart the Kingdom upon any pretext what-
 soever, as *Grot.* observes was done by the
Moschs and the *Argians* of old, and I hear by
 the *Chinefe* since.

Prohibent But it may be yet argued, that though no
 discedere le- such condition as this were expressed, yet such
 ges pœnaq; is the force and effect of that Tye, that Citi-
 mors posita zens and Subjects have not only to one ano-
 est patriam ther, but also to their Prince, that they look
 mutare vo- upon it as eternal, and does so perpetually o-
 lenti. perate, as that any Subject that voluntarily
 Ovid Me- departs the Kingdom, is at any time obliged
 am. lib. 11.

to return; and therefore they may be always recalled to their former Allegiance; and if they refuse to come, they run the risk of being Proscribed and Forfeited; as Queen Elizabeth did the Earl of Lenox and his Son, who refused to go back to England again out of Scotland. *

* Bodin.
Repub. c.6.

They also Argue from a received Rule in Law, That none can confer a greater Power on another, than he hath himself*. Now, say they, a Subject by the first Devolution he made of his Right to his Native Prince, comes to be still in the Dominion and Power of that Prince and his Government; and therefore cannot depart the Kingdom he is Subject of, nor transfer his Allegiance on another Prince, without the Prince's and States special Consent and Approbation had thereto. Is not every Subject bound to Maintain and Defend his Native Country? But how can he be said to defend his Native Country that deserts and abandons it; for by this unnatural Act and unwarrantable Deed, he deprives his Country both of a good sensible Subject, and of his Goods and Estate, that might help more Persons to rise in its common Defence, that otherwise might not be in a condition to do it, tho' never so willing.

* Hottoman
l. 55. F.
Div. Reg.
J.

These were called Native Subjects of the Place and Country in which they were Born, as the Athenians were called *αυτοχθονες*, whose Original was not to be mistaken by them, or others, where they might happen to come.

Thucidid.
l. 1.

Errone enim veritas Originis non amittitur, nec mendacio dicentis, se esse unde non sit, deponitur, neq; recusando quis Patriam ex qua oriundus est, neque mentiendo de ea quam nec habet, veritatem mutare potest, says Ulpian the Lawyer. * Which Law was afterwards by succeeding Emperors kept in force, even to the Days of Charles the

* L. 6. ad
Municipal.

L.39. Cod.
Decurion.

Fifth, who caused it to be inserted in the Golden Bull, with that Exception, if the Publick Exigency of the State did not otherwise require it: Which Exception was also observed by *Ulpian*, and the former Emperors *Valen*, and is in it self most Just and Reasonable, that if one cannot live in his Native Country for poverty, shall he not seek to live elsewhere? Or if he be causelessly Oppressed, ought he not to shun the being so any more, if he can? If a Subject hath not the Benefit of enjoying God in his Ordinances in his Native Country, should he not go where he may get it with safety and freedom? Certainly there is all the reason in the World for it. In confirmation of this, I find that Popish Princes themselves had this last Exception under consideration, and particularly *Ferdinand* King of the *Romans*, at the Dyet at *Augsburg*, ordained, That it was Lawful for any Subject of the Empire to quit and change his Native Country and Prince, upon the account of Religion. The Kings of *Spain* made several other Limitations for the benefit of the Subject; which I need not here trouble the Reader with.

Anno 1555

The Question then comes to this, viz. Whether by the Original Constitution of the State, such antecedent Laws (forbidding Subjects to depart) might be agreed to amongst them? Or whether rather there should be a Tacit Clause or Condition understood to be in the first Stipulation or Contract, made and agreed to by the People; that the Obligation and Tye on the Subject should stand so long as he resided there; yet that it should be *Leisum*, and free for any to change his Habitation or Country? Which latter Turn of the Question seems more reasonable for People to have done,

done, being it is the Consequence of the Natural Liberty and Freedom which every one aspires after: And as the Nature and common Reason of Mankind leads to this, so even the *Roman* Laws themselves are forc'd to acknowledge it; and the same *Cicero*, (a) notwithstanding of his Judgment in this Question, (a) Pro yet commends that Law whereby none is forc'd to stay in a Country against his Inclination; and this he calls the *Foundation of Liberty*, that every Person should be Master of himself, as to his staying or going out of a Country or Nation. But this I think is only to be understood of single Persons and Families, and not of Bands and Troops of People, who are reasonably supposed not to go away alike, without being either disgusted at the Publick, or having a design to join with some Enemy that may invade their Native Country, and disturb the Peace thereof. There is no Reason of State that will allow such Bands to go at once out of the Kingdom; it being against the very Ends of Society, and tending to the Dissolution of the State; and the ordinary Way for Invading Countries and Islands of old, and of making Colonies; whereas single Persons may have several urgent Considerations moving them to go, and by their going their Native Country may be the more benefited thereby. It's one thing, we see, for to draw Water out of a River, and another thing to draw the River it self to another Channel; and in this Sense I take *Cicero's* Words before cited; and *Triphoninus's* * Words, *De sua cuiq; Civitate, Statuendi facultas libera est.* For that which is most proper and conducive to the

* L. Inbel-
lo. F. Cap-
tiv. &
Postlim.
revers.

good of Private Families and Persons Necessities, and which does not create any disturbance or disquiet to the Publick State, there is no reason why we should not from the presumed Will and Approbation of all People, conclude such a liberty allowable.

Nay such Treatment of Foreigners and Strangers, is contrary to the Genius and Temper of the *English* in former times; for if we may believe Sir Thomas Smith, and Philip de Comines, there were none more Complaisant and Courteous to Strangers, than the *English*: So that Strangers might freely use their own Country Fashions in *England*, as well as if they were at home: And our Barclay * gives a fuller Account of the frank, generous Temper of that Nation towards Strangers; *Patriciis quoq; Animus* (says he) *ad excipiendos peregrinos sponte factus, & famam illius comitatus cum honesto Ambitu querunt.*

* Icon Animorum.

SECTION III.

Reasons for Naturalization of Strangers, not only from the Laws of Nature, Civil and Feudal, as in the precedent Chapter, but also from the Custom and Practice of England and Foreign Nations, &c.

AS this desirable Liberty is much wish'd for by Persons curious, and of active Spirits, so it ought to be the more readily allowed among Men, especially when there is no hurt

hurt done the Publick State thereby, but rather a great deal of Profit and Advantage, and the occasion of many Persons of all Nations frequenting Places and Countries, where such an easie access is granted indifferently to all Strangers. The Provinces of *Holland* and *West Friesland*, is a pregnant Instance of the Truth of this, which let Persons of all Nations freely, without any restraint, come and go, provided they do not contrive any hurt or prejudice to the Publick State. This Policy of the *Dutch* not only begets a great frequency of People of all Arts and Professions, to come and live among them, but also invites even idle Travellers, and such like, to spend their Money there; which hath so well succeeded, since they were formed into a Republick, that it's a wonder their emulous Neighbours the *English* have not imitated them therein, and hush'd that Doctrine of Naturalization, so much insisted upon by their Lawyers, and Embraced their kindly Neighbours the *Scots*, that were still ready, as their occasions offered, to spend their Days among them, on purpose to benefit and advance the Good of the Nation both in Church and State. What is it, I pray you, that has made the Metropolis of *England* swell to such a height as it is at this day, but the general Invitation they at first gave to all Strangers to live with them; and had they let this desirable Project run throughout the whole Kingdom, it would certainly have enriched their Nation, by a modest Computation, six to one, to what it is at present; and to what should this visible loss be imputed, but to that narrow National Humour to which the generality of the otherwise Noble and generous Nation of *England* is so much wedded

Wedded and Enclined; and untill they frankly cast off that shyness of Temper toward Strangers, they'll be still look'd upon as Proud, Haughty, and Inconverfible, when as really they are not so. This close Self-conceited Humour makes them be look'd upon by Strangers to be a particular Species of Mankind, different from the rest of the World. The *Spartans* I think were the People of any that came nearest this intollerable Humour; they would not let any Strangers dwell among them, least with their Tale, their own old National Customs and Fashions might be Corrupted or Debauched by the Conversation of Strangers: To which it was pertinently answered by others, *That all their Customs were not the best, tho' received by them; so neither the Customs of Strangers the worst, albeit commonly rejected by them.* And if any good Fashions among Strangers should be rejected and condemned, because they flow from them, it cannot be thought better than childish Foolery. And the more Polite and knowing of our Neighbour Nations, who have tasted of the Manners and Customs of other Nations, do find fault with their own Country Men for that rigid Humour, that thus sticks so fast to them, that they scorn to set their Foot out of *England*, and never desire so much as to converse with one of their Neighbour Nation: And by this tacite Interdiction of Strangers of all sorts, they cut off all Communication with the other Parts of the World, and thereby lose the benefit that a free and ingenious Conversation of learned Strangers might afford. And I must beg leave to use *Livy's* Epithet, of the Ordinance of the *Acheans*, vainly made against the

the *Macedonians* entering into their Borders ;
Execrabilis veluti desertio Furis Humani. If *Mer-*
chants come to Trade with ours ; if *Scholars* come
to see our *Learned Universities* ; and if *Noblemen*
and *Gentlemen* of other Countries , come to pass
time here, either for their *Health*, or other innocent
Recreations, shall they be debarred or look'd down
upon, when they treat us with all imaginable *Civi-*
lities while we *Sojourn* among them ? This me-
thinks is so unlike the generous *English*, whose
Character I have already given out of *Barc-*
lay, in relation to their *Civility* and kind *Re-*
ception of *Strangers*, pag. 78. and so far be-
yond the Lines of good Manners, that it's next
to *Barbarity* it self. Look we into the Prince *Æneid. 1.*
of Poets *Virgil*, and he'll tell us with wonder
what sort of People these must be, that thus
forbids *Strangers* to live among them.

—*Quæve hæc tam Barbara morem,*
Permittit Patria, Hospitio prohibemur arena.

And if they be such Monsters of Nature,
as to continue to forbid poor innocent *Stran-*
gers to live among them, the Poet brings in
his *Ilionæus*, complaining of their *Barbarity* and
Injustice, and *Invoking* the Gods to assist and
mind them.

Si genus humanum & mortalia temnitis arma,
At Sperate Deos memores fandi atque nefandi,
&c.

Shall the old Heathen World pride them-
selves so much in admitting and entertaining
Strangers with all Offices of Humanity, and
shall that which was made by them a sacred

Bond of Friendship be laugh'd at and ridicul'd
 by us? ΒΕΒΛΗΟΤΑΤΗΝ ΔΕ ΕΝ ΕΙΝΑΙ ΤΩΝ ΦΙΛΩΝ ΞΕΙΝΗ,
 ὅ γὰρ εἶναι ὁ δεινότης τελευτῶν ὑπὲρ ὁ ἀμειβομένης
 οὐκ ὡς ἐν π. λ. τ. α. ς.

Aristotle.
 Mag. Mo-
 ral. l. 2. c. 2.
 Edit. Paris.

There is no stricter Tie of Friendship, saith he, than that of Entertaining Strangers; nor no more common End than this proposed by Citizens or Subjects. Can we imagine that the Noble and Learned English should come short of the common Duties of Humanity, that the very Indians were wont to pay to Strangers and Foreigners; if we may believe *Diodorus Siculus* *, or *Ælian's* various History, and the like. I dare not give my self leave to entertain such a mean thought of so great a People, whose Genius and Temper led them not only to do Offices of Civility and Justice to Strangers that come to dwell among them, but make Laws also in their Favour: So we find, that when Strangers are Tryed for their Lives in England, the Law allows a Jury to sit upon them, called *De Medietate Lingua*; that is; the one half of the Judges in the Verdict to be Strangers, to balance the other half who are Native Born *Englishmen*. From which practise it would appear, that the Antient English were much for encouraging of Strangers for to dwell among them. Indeed if a company of Citizens, or Subjects, had unseasonably gone off, to thrust themselves into the Neighbour Kingdom, when they were either broke in their Credit, and run away with their fellow Citizens Money, or in time of War, that the Nation (to which they came) had with their Native Country; or that they were guilty of Treasons, or such like publick Crimes: In all which Cases they ought not to be received

* L. 2. c. 42

Livie l. 2.
 c. 37, 38.
 Edit. Gro-
 nov.

nor

nor allowed the benefit of a free Subject in that Kingdom they Sojourn unto, but only to be considered as *Advena &* Temporary Subjects, who cannot be so well united with the Body of that Nation, being they give but a transient Allegiance to the Supreme Power there; which hath not been so well adverted by a learned *French Lawyer*, treating on this Head. * * *Bodin. l.*

For remedying this Inconveniency hereafter *6. De Re. pub.* in the State, it may now, by the Wisdom of

our Commissioners, be provided and agreed to, That no Subject shall venture to go out of his Native Country, to wit, out of Britain, for to reside in another, without special Leave had and obtained: And I would have added likewise, That no Subject should go out of Britain to reside animo remanendi into any other Country; so no Subject dwelling in Britain shall convey his Money to the Banks of any other State or Kingdom. For instance, he that gains his Money here in Scotland, and clandestinely conveys it away to Holland, or Venice, to be buried there, doth two Ills to his Country; first, he drains his Native Country of that Stock of Money he has gained in it, and then burdens the Nation with himself and his Family; who cannot be considered but as poor and mean, being voluntarily runged of this considerable Stock, *viis & modis* acquired by him: And as this Argues a Self-consciousness in those that do it, of their unwarrantable Behaviour in the Government, so the State must needs look upon such Persons as so many Rooks and secret Enemies to it, and who are ready to go off upon the first occasion, to the place where their Money lies. And therefore for preventing of this Abuse, it were to be wish'd the Parliaments of both Kingdoms did, by a solemn Act, strictly prohibit all such frau-

fraudulent and secret Contrivances; nay oblige those that have already put into these Banks, to recall their Money home in Specie, or value thereof, against the next ensuing Term, and be solemnly Sworn before the *Exchequer*, upon the Quantity and Sums given out; that it may circulate in the Nation, and the poor Country which they have so mercilessly Robb'd, be the better for it.

Laying aside all these nice Distinctions used by Lawyers and Statesmen, both Antient and Modern, about the Naturalization of Strangers, I affirm, that all Inhabitants, of what Degree, Sex, or Quality soever, that have fixt Residences, and their Fortunes and Interests brought to a Kingdom with a design to live still in it, and to obey its Laws and Constitutions, I say, these may be truly call'd Subjects without any respect had to their native Soil from whence they first came. This I take to be the current Opinion of the Doctors at present, particularly of Learned *Gail*. And the two Nations should Unite freely of themselves that were not formerly in League with one another, as the *Celti* and *Iberii* were afterward called *Celtiberii*, or as the *Scots* and *Engliff* now after an Union is concluded, *Britains* their Rights and Privileges are not lost by that Union, but rather Communicated to each other, as the Laws of the *Sabins* first, then that of the *Albanians*, were transferred on the *Romans*; by which gentle Translation they were fairly made one Commonwealth, as *Lib* tells us, and consequently one People. So that Objection raised by my Lord *Bacon*, to wit, That the Scots should first obey the English

Gail. l. 2.
Obf. 36.
N. 7.

Lib. 1.

Laws

Part I. of Scotland and England.

91

Laws, e're they be admittcd to the benefit of Naturalization, is now I hope sufficiently Answered, without touching or repeating the solid Answers made to it by himself; nor yet the Precedents brought by him in the like cases for Naturalizing the Irish and those of the Islands of Jersey and Guernsey, and which is confest doth come home to the Case of the Scots being Naturalized in England.

But since this Honorable and Learned Person hath made this Point of Naturalization run through all the Veins of his three Discourses, I am forced to dwell a little longer on this Subject, beyond my first Design.

S E C T. IV.

A further Prosecution of the former Subject, particularly with respect to the English, and to my Lord Bacon's Reasonings on that Head, &c.

I Must then here take notice, that upon this Quadripartite Division of the Ability of Persons, this noble Author observes first, that *it's a gross Error to think that the Antenati have as good Right as the Postnati to inherit Freeholds in England; because, saith he, Laws look not back, but forward.* But with leave, I think his Lordship reasons widely; for here the Law does not Regularly look backwards, as it reflects upon a Subject that was Existing e're the Law was made, and it's but Declarative of a Priviledge which those of the Scots Nation had hitherto wanted, and so may be interpreted

as

as a Correctory Law ; which by all Lawyers is confest, may look backward ; and I mind a Decision Recorded by Sir *George Mackenzie* on this Subject, wherein it was found that my Lord *Kinloss* was adjudged to have Right to enjoy Heritage in *Scotland*, albeit he was *Antenatus*, being descended of the *Bruces*, which was alledged to be of *English* Extraction. Which Case, if it holds good even upon the alledged Reason, that he was Originally *English*, it ought to hold so from the Parity of Reason, to the most of our great Families in *Scotland*, who are said to be of an *English* Original, and been here in *Scotland* since the days of *Malcolm Canmore*.

And that I may confine my self to that forc'd and artificial Way of Reasoning used by Lawyers, I shall put the Case, that Prince *Henry*, King *James's* eldest Son, was several years Born e're his Majesty succeeded to the Crown of *England*, would he be debarr'd the Succession to his Father's Crown because an *Antenatus* ? The Reason of the Law is the same which makes this Case still the same with the former, according to that Maxim in Law *Ubi est eadem ratio, ibi eadem Juris Dispositio*. The difference only that can be pretended, is in the Quality of the Person, which is but Gradual, and not Specifick, especially when we reflect upon the Succession to a Patrimonial Kingdom (as *England* is acknowledged to be.)

Let us then in the next place turn the Scales a little ; and suppose the case of the *Antenati*, to be that of the *Posthumi*, and we shall be forced to Conclude according to the Principles of the Civil Law, that as the Child yet unborn, had good Right to Succeed to his Fathers

ther's Inheritance, being in Construction of Law reputed as already born, as to what relates to his profit and Advantage: So a *Scots-man* born before King James's coming to the Throne of England, shar'd therein the same privilege and benefits with those that were born thereafter, when any advantage redounds to them thereby.

Posthumus pro jam nato habetur quoties de ejus Commodo agitur, says the Law. The case of privileged persons is hereby no way extended farther, than what the persons and things themselves do require; Only a changing the State of the one into the other, for Illustrating the parity of reason in both. It's truly hard, that a Son born before one happens to purchase an Interest should put him in a worse condition than the Younger Sons of that same very Person, when as in Nature and Reason we ought to think his condition Richer and Happier in the world, as being his Eldest Son, and so the *Antenati* should be considered as the Kings Eldest Subjects, and the first born; and to have been the Forerunners of that happy Union, begun in the Person of King James the Sixth.

L. 7 F. de
Stat. Homi

As the forecited learned Author hath well observed out of *Plato*, that the strongest of all Authorities to confirm any debateable point is, if he can alledge the Adversaries authority against himself; so I shall beg leave in the case in hand, to mind that this Noble Lord, when he advanced that Distinction of the *Antenati* & *Postnati*, with relation to the *Scots*, neither the grounds in Law I have formerly mentioned of the two Kingdoms being under one Supream head, and under one Allegiance, and so may not be reputed Strangers, In order to debar

Bacon.

debar them from succeeding to Heritages lying within the Dominions of their common Prince and Sovereign, nor yet the Act of Parliament mentioned by him, pag. 45. which is the Act of Recognition in the first year of King *James's* Reign, where both in the Rubrick of the Act, as well as in the body thereof, the Parliament doth Recognise, that the two Realms of *England* and *Scotland*, are under one Imperial Crown; that is, saith he, not so much under one Person having that Crown, but under one Sovereign power of Governing, Including both Kingdoms; which if true, then all the reasons brought by him and the *English* Lawyers against the *Antenati*, founded upon the Right of Naturalization do of themselves vanish; And why may not the *Scots* debar the *English Antenati* here in *Scotland*, as they pretended to do in *England*? but to take away all Seeds of debate and discord from between them both, It is declared by the third Act of Parliament in the Fourth Year of his Majesties Reign, that all Hostile Laws are abolished, and that the Union of both the Kingdoms is already Centred in His Majesties Person; and are not the Subjects of both Kingdoms equally obliged to Fight and assist their Common Prince, to be true to his Interest, and to be the declared Enemies of all their Kings Enemies; this reasoning is so full and clear in it self, that as my * Lord says, no man can speak against it. pag. Eadem. Likewise by a Statute of *Edward the Confessor*, which as *Hollinshead* says, was reckoned among the good Laws published by that pious Prince, the *Scots* among others that were Esteemed of the same Nation with the *English* are mention-

* *Bacon.*

ed; for this reason, because almost all the *Scots* Nobility got *English* Wives in Marriage, and the *English* likewise got *Scots* Wives, & *Sic facti sunt duo in carne una*, which good Correspondence and Intercourse of Marriages was much Cultivated by them both, till *Edward Longshanks* Ambitious designs had broke it off. And till that unhappy debate about them Clientary Provinces was set on foot; which the *Scots* had from the *English* in Remuneration of the great and many Services done by them against their old cruel Enemy the *Dane*, against whom the *Scots* fought near 200 Years, and lost in defence of their Neighbour Nation an infinite Number of Men, and some of their Kings during that space: Yet when they came to be Victorious and beat those Northern Salvages home again out of *Britain*, they generously refused to share with the *English* in the Spoils of the Victory when called by them to it. For these notable Services perform'd by the *Scots* against the *Danes*, and freeing the *English* from their unsupportable Yoke and Servitude, were these Clientary Provinces of *Northumberland*, &c. given over to the *Scots*. And this is likewise added as one of the Reasons of *St. Edward's Act*; which as it shews the true and genuine Temper of the *Scots* Nation, so on the other hand, it lets the World see how false and unjust is the Character given of them, by that Varlet Master Parsons, or Doleman; to wit, That they were a surly People, naturally Enemies to the *English*: which sutes better with the soure and Melancholy Imaginations of a Seditious Ill-natured Monk, and of one of the Wasps of *Ignatius Loyola's* Hive, than with the generous and warlike Genius of the *Scots*.

Craig. M.S.
de Unione
Regni.

The

Hollingshed
Boeth.

The Danes being beat of England, but not before they were first beat out of Scotland, and made by the Scots to Swear never to return to Britain, the English could not but grant them the Priviledge of Naturalization in England, in the same manner that Lewis the Eleventh of France communicated to them there, when they were forc'd to League with them, by reason of the unjust and unkind Returns made by the English to their former Friendship. The Scots then having once fairly acquired this Benefit and Priviledge, and that for such a just and onerous Cause (never to be forgot by the English) they have good Reason still to adhere to this Right and Priviledge, till it be abrogated by a subsequent Law or Statute, *Nam nihil tam naturale est quam Unumquodque eodem modo dissolvi quo colligatum est.*

I might here also Argue from a Statute of Edward the Third's, but because any Arguments built upon it, are but the Effects of imaginary Lording he pretended over Scotland, I shall wave them at this time; as also that President in Dyer, hinted at by my Lord Bacon, 14 Eliz. The Reason of the Statute given there is, because the Scots were never accounted Aliens. If then the Scots were not accounted Aliens in what tended to their hurt and prejudice, so they cannot be reputed Strangers in things relating to their visible

Paulus 1. Profit and Advantage; according to that excellent Rule in the Civil Law, *Secundum Naturam est commoda cujusq; rei eum sequi, quem sequuntur incommoda.*

But

But why should I go so far back to fetch Laws and Authorities, to prove a Point that's so clear, when the *English* themselves have in full Parliament, Judicially declared, the other year, *That the Scots are not Aliens, nor are to be reputed so.* Thus in the late Act of Parliament in *England*, settling the Succession upon King *William's* Death, it is there declared, *That no Person born out of the Kingdom of England, Scotland, and Ireland, with the Dominions thereto belonging, (even altho' Naturaliz'd) shall be capable of Publick Trust.* And therefore Native Born *Scots* cannot be thought *Aliens*, more than Native Born *Irish* and *Welch*; but so it is, these are capable of publick Trust, and therefore so are the *Scots*: And in the third Clause of the aforesaid Act, it is Declared, *That no Person who shall hereafter come to the Crown, shall go out of the Dominions of England, Scotland, and Ireland.* As by the former Clause the *Scots* are capable of publick Trust, as not being reputed Strangers, so in this latter Clause *Scotland* is declared not to be a Foreign Kingdom, nor the *Scots* Foreigners: And consequently all their Lawyers Reasonings from obsolete Laws, and old musty Precedents, must needs fall to the ground.

And now albeit this way of Reasoning may not fully Convince every *English-man*; yet I hope it lets them see that the *Scots* had ever and anon no small Interest in that Kingdom. And if the *Scots* never quarrell'd any *English* to set up here, and to be Incorporate with the Body of the Nation, even before King *James* the Sixth's Accession to the Crown of *England*, there is all the reason imaginable they might expect the like returns of Civility and

H

Friendship

Friendship from the *English*, at least so long as any of King *James's* Off-spring and Lineage sways the *English* Scepter. And it is certain, that upon a true Survey of both the Nations, there are at this very day more *English* in *Scotland*, than there are of *Scots* in *England*. Which as it answers one of the Inconveniencies propounded by my Lord *Bacon*, pag. 27. of that Discourse of the *Postnati*, and repeated in his second Discourse of Naturalization, so it leads me yet to follow that noble Personage a little farther.

And to tell them plainly, that the *English* need not now fear a concourse of *Scots* into that Nation; for it is plainly acknowledged by all, and by the same noble Person, That the Spring-Tide of a *Scot's* Inundation was past at King *James's* first coming there. And tho' *Scotland* be upbraided as a poor Country, yet we see, that few *Scots* that went up with King *James* to *England*, and with any of his Successors since, stayed any time in it, but chused rather to live in their own Native Country, and breath the Air with which they sucked in their first Milk. Nay, for all the Friendship the *Scots* contracted and inviolably Maintained, with no little Expence, for a Series of Years, with the *French*, and for all the Immunities and Priviledges obtained by them in *France*, yet we see few or no *Scotsmen* reside there, unless it be some Journey-men Taylors, and Popish Priests, or the like, who by their Trade and Profession, as they pretend to be Priests of a Catholick Church, so may be justly esteemed rather the Catholick Subjects of all Countries than the dutiful Subjects of one particular Na-

tion

tion. Nor doth any of this Nation seek to go abroad, but when there is War for to try their Fortunes, and to raise the Pristine Valour and Antient Glory of their Country.

And why should the *English* so much fear the *Scots* to pour in upon them, when their Seaport Towns, and frequent Trade, make their coming rather Necessary than Troublesom; and the supplying their Plantations in the *Indies*, will, I suppose, yet cause our Neighbours to invite us to their necessary Assistance. And as my Lord *Bacon* does fairly acknowledge, "That *England* is not near so well Peopled
" as other Countries abroad are, in an equal
" space of Ground; and that the Marks there-
" of visibly appear in the many Wastes and
" Commonities, &c. throughout that King-
" dom; so I may here say, a great part of
Scotland is still Waste and Unmanured; which
now they begin to be sensible of, and therefore they'll need the greater Temptation to bring them out of their Native Soil. But as I observed of *Holland*, some pages before, why should the *English* fear that which makes the *Dutch* Rich and Powerful? Is it not by frequency of Strangers of all sorts, from all Corners of the World, that enables that Republick to vie with *France* now, as it did with *England* in the year 1672? Is it not this continued Flux of Strangers that furnishes their Armies, and Mans their Fleets; and that on a sudden, as the Exigencies of their State require? Pray what Assistance hath the *Scots* given to the *English*, during all the late War in *Flanders*, and now in *Holland*? Have there not been many gallant Officers and Gentlemen, besides an infinite Number of the Common
H 2 Soldiery,

Soldiery slain, in maintaining the Glory of the *English* Nation? (for they all go under the Name of *English*) And shall there be a daily Drain of our People to serve the Interest of *England*, and all this while never judged necessary nor worth their regarding? This I presume to say, no thinking Person can well affirm, without doing violence to his Reason and Experience. And it's truly thought, that e're the *English* make good their Title to *France*, and keep that Balance of Trade with *Holland*, they'll need more Hands than we can spare. And why do all other People glory to see their Nations Populous, and the *English* only to fear it? And as the fore-cited Author observes out of *Machiavel*, who slights the Maxim of making Money to be the true Sinews of War (which perhaps is the mistaken Maxim of the *English* :) For, says he, *The true Sinews of War, are the Sinews of valorous Men.* And methinks the ease this might bring them, to pay their Pole and other Taxations, should rather encline them to it, than fright them from it.

2. As to next Inconveniency that of Unity of Laws in both Nations, my Lord *Bacon* makes a very solid Answer, and tells them, *That Jersey and Guernsey are allowed this Priviledge of being English; and yet they are not Subject to their Laws, any more than we: But of this I shall have occasion to treat hereafter.*

3. As to the Inequality of both the Kingdoms in their Soils and Fortunes: To which he Answers, *That this Difference is meerly External, and acknowledges, that the Scots are a People very Ingenious, in Labour industrious, in Courage valiant, in Body hard, Active and Comely,*
and

Part I. of Scotland and England,

101

and that Fierceness of Temper the Scots might then have had, is now much worn off, and to be attributed rather to the Genius of that Age, than to the Country they live in; and they are much the more Richer now, than they were the time that their English Monarchs courted and solicited to be United with us.

Edward the First is propounded as one of the greatest Heroes England ever had, and yet his Expedition to Scotland, upon the prospect of Conquering it, is reckoned by their Historians as one of the greatest Acts of his Life. These mighty and puissant Enterprizes of the English Kings to reduce Scotland, did necessarily oblige its Inhabitants to a fierce and severe Breeding, made them quite forget the cultivating either themselves or their Country. They well understood, that by giving themselves up to servile Labour and Cultivating of Ground, their Courage might be soon blunted, and their Natures soft'ned; and in process of time, when they should come to taste of the sweets of well manur'd Ground, their taste would become more nice and gustful, and their Spirits more Effeminate and Vapid. Upon which Considerations they chused rather to leave their Country Barren, than after it was Manured and Cultivated to be possess'd by their Enemies. In those days Houses were built meerly for Conveniency, and not for Pleasure, and their Furniture were Men and Arms, and not Tapestry, Gray-hounds and not Messans. They made no Speeches in Publick, but such as they back'd with their Lives; and the turn of their Periods were animated rather by an undaunted Courage, than an affected Eloquence; and yet all this was but what the genius of

See Galdus
Speech in
Tacitus.

that Age required: And shall a People be called Barbarous, because forsooth they did inure themselves to a severe Discipline, and mean Living in time of War? *Corpora Homi-*
Justin lib. num. ad inediam, laboremq; animi ad mortem
 44. cap. 2. *parati. Dura omnibus & stricta Parcimonia, bel-*
lum quam otium malunt, saith the Historian. I would fain know if *Cincinnatus*, who had the Plough in the one hand, and the Sword in the other, was not in as great Esteem in *Rome* by all sorts of Persons, as any other that managed the Dictatorship; there would *Cato* have preached so long severity of Living to the *Romans*, and yet think it inconsistent with Virtue? It is not at all to be thought. On the contrary, we are told by *Halicarnassens* and *Livy*, 'that in that time they used a fierce course
 ' way of Living. And certainly when People once come to forget that severe Discipline, to glut themselves in Ease and Pleasure, and too much Affluence of all sorts, their Luxury will become the Canker-worm of the State, and readily expose them to be Enslaved and Conquered by their Neighbours.

————— O *Prodiga Rerum,*
Luxuries, nunquam parvo contenta paratu,
Et Quasitorum Terra, pelagoq; ciborum
Ambitiosa fames: & lauta gloria mensa!
Discite quam parvo liceat producere vitam,
Et quantum natura petat.—————

Lucan.

From what's said, it may be thought perhaps some disadvantage to the *Scots* to be thus United to a People that love their Ease, and a well covered Table, and that immerse them-
 selves

selves in all the other Pleasures of Sense; for Vices of that nature are so tempting, that they easily steal in upon Persons, and in a little time make them out do the Original: And it is observable, that scarce ever did any Foreign Prince attempt to conquer them, but he proved successful, except *Philip of Spain*, *An.* 1588. Whereas the *Scots* love not to be subjected by any Foreign Force; nor did they hitherto ever submit their Necks to any Foreign Yoak; as *Tertullian*, to their no small Commendation speaks of them; notwithstanding of the frequent bloody Attempts made upon them by the *Picts*, *Britains*, and *Danes*, nay, and by the Victorious *Romans*, whose proud and haughty Career they stopt, so as to make them quit not only the Borders and Limits of this Nation, but also the whole Island of *Britain*, as a thing given over and lost by them. Thus the Prince of Modern Poets, our *Buchanan*, elegantly describes it.

———— *Hic & Victoria fixit,*
Præcipitem Romana gradum, quem non gravis *Buchanan.*
Repulit ————— *[Auster* *Epithal. ad*
———— *Hic contenta suos defendere fines* *Francisc.*
Roma securigeris, prætendit mœnia, Scotis *Vales.*
Hic spe progressus posita, Caronis ad undam.
Terminus Ausonii signat divortia Regna.

And no sooner did times of Peace give them liberty to Build and Plant, but one might see they made very convenient Dwellings throughout the Kingdom; and I may say, the Kings of *Scotland* had more and more noble Edifices built for their Courts, of the *Gothick*, *Dorick*, and *Corin-*

thian Order, than any other of their Neighbouring Kings had, of which some Vestiges are yet to be found. And though we may not vie with *England* for Fertility of Soil, nor for Money, being it's but a narrow Hilly Country; yet it's washed perhaps with the richest Seas of the World. And the Treasure of *Holland* one would think doth lie in the bottom of the *Dencalidonian* Sea. Our Valleys and low grounds as they abound with Coal & Salt, so our Hills with Mines of all sorts of Metal, and Curious Minerals, as the most Authentick of our Histories * can inform; besides the ordinary Product of the Country; such as Corns, Pease, Wheat, and Cattle; which we daily Export, and get home only little trivial Things that we may well want and dispense with, are I suppose infallible Marks of a Country that's good for Living.

* See *Leflys*
History.

In a word, as hath been already observed to my hand, the true Signs of a Plentiful Country, are to supply others, and to be supplied by none in things necessary for Back and Belly: Whereby it is evident, that *Scotland* is not so despicable, nor yet so beggarly a Nation, as that Seditious Rogue *Doleman* would make the World believe. Do not we send black Cattle to *England*, Herrings to *Holland*, and Salmon to *France* and *Spain*; besides the North of *Scotland* send daily no small Loadings of Plaiding and Woollen Cloths to *Holland*, which supplies their Armies there: And if we be scarce of Money in *Scotland*, it's because we give not our selves to Industry and Trafficking as our Neighbours do; and because of the daily Resort of our great Men and others make to *London*, nay the West of *Scotland*, particularly

ticularly *Glasgow*, send out their Money continually to *Holland*, and the East Countries, for the little Commodities they bring home, which are of no value; all which must needs impoverish *Scotland* as to Money: And till of late the generality of this Nation bought *English* Cloth, when as now they be as conveniently served at home by their own Manufactories.

The vast Stock of Money that was lately raised and imployed at *Edinburgh*, by the *African* Company, for settling a Colony in *Darien*, which tho' it did not succeed as we could wish, yet it may let the *English* plainly see, that *Scotland* is not so poor, nor yet so contemptible a Nation as was given out; and perhaps neither the *English*, nor yet the *Dutch* laid down the Foundation of their great Traffick and Trade, upon so great a Fund at first as the *Scots* did, at least I have heard it so affirmed by Persons that pretended to know these things better than I do. And if the *Scots*, who are naturally, as I observed before, a proud, hasty People, are often provoked to exercise their Choler, by the impudent Lies of such as *Doleman*, *Heylin*, and others, whose Books are stuffed with railing Sarcasms in general of our People and Nation, is it any wonder at some times, that they fly in the Face of such ill-manner'd Treatment from Neighbours of one Continent, and that live under the Government and Protection of one Monarch; and as they are never found to be the first Aggressors in these silly Quarrels, so they ought in reason be allowed to pay them home in their own Coin, being they are but only upon Self-Defence. Do but cast your Eyes upon the Beginnings of other Nations, and you'll find them

them but mean and inconsiderable ; what was *Macedon*, *Rome* ; what was the beginning of the *Turkish* Empire, which is now the Terror of the World ? Did we cast our Eye and reflect a little on the many Offices of Friendship and Humanity the *Scots* did, from the time that the *Britains* were Invaded by the *Romans*, the *Danes*, and the *Normans* , we would put a great value on *Scotch* Friendship ; their assisting *Henry* the Third with an Army against *Simon Montfort* , and defeating him in Plain Field , with all his Treacherous Associates, might Unite them to the *Scots* ever thereafter, and so turn the Cannon a little on the Objectors ; and let them look into their own Writers *Walsingham* and *Hollingshed*, and there they'l find, that tho' *Edward* caused (contrary to the Law of Arms) all the Prisoners to be hang'd that were taken in the Wars against *Robert de Bruce*, yet when that Heroick Prince took 4000 of the *English* Prisoners, he treated them with all the Civilities imaginable ; so that they would never draw Sword after that against him, when both Armies came in sight of one another at *Musselburgh* : And did they not send back *Edward* the Third's General, the Duke of *Nemours*, without so much as a Ransom* ? Should I recount the extraordinary Civilities performed by the *Douglas* to *Piercy* and his Brother, they took the *English* Prisoners Paroles of Honour, not to stir till the Event of the Battle , which when they saw go against them, they yielded themselves Prisoners ; such was the good Understanding and Correspondence both Nations had in those days ; but yet a more notable Instance of the same *Douglas*'s Generosity is related by our Histories ;

* *Hollingshed.*

stories; for tho' tae *Douglas* and *Piercy* fought for some considerable time against one another, yet the brave *Douglas* finding that *Piercy* was engaged to fight against *Henry* the Fifth, he laid aside his old Enmity, and went gallantly to the *Piercy's* Assistance, where he did such wonderful Acts of Prowess, that King *Henry* did really, in his own Opinion, prefer the *Douglas's* Gallantry to his own Success. Was not *Piercy* sheltered by the Earl of *March* and entertained with much Civility and Kindness, yet was betray'd under Trust by *Rokesby*, who sent his Head to *London*? Was not our King *James* the Third still called and esteemed the true Friend of King *Henry* the Seventh (as my Lord *Bacon* tells us in his Life?) There might be many more Instances given of the Humanity and Fidelity of the *Scots* to the *English*, out of Foreign Histories; which now I wave: (if it were no more than they are said to come from the antient *Scythians*, they ought not to be upbraided with Treachery and Infidelity; for the *Scythians* were judged the True and most Faithful of any People; nay, beyond the *Romans* themselves, if we believe *Horace*.) Only I shall say, that it would seem by these Contests, and the various Steps whereby they were carried on on both sides, Divine Providence would have that reciprocal Friendship that was in both Nations, to follow on the Heels of their Bloody and Generous Contests, by which they for a considerable time did waste and destroy one another: As Peace is the end of all War, so an Union of Contending Parties is the firmest Establishment of a lasting Peace.

Lib. 3.

Ode 24.

I know

I know the *Scots* are upbraided by these and other scurrilous Writers, for being an untractable People ready to revolt, and throw off their Kings, and sometimes to Murther them, and for proof of this they run for Instances in former times, but I hope the more knowing and considering Part of that noble Nation will be far from making use of this Argument against our uniting with them, when they know that these Cruelties and Barbarities ought rather to be ascribed to the genius of these old barbarous times, than to the Country it self; and if any please to look into the *English* Story, particularly to the Preface of Sir *Walter Rawleighs* History of the World, he'll find that the *English* come nothing short of us in these Butcheries of their Kings; and our sticking so close to the Royal Line in all Ages, may give a sensible Demonstration of the groundlessnes of this and the other Calumnies: And as the *English* cannot free themselves more than we of these foul aspersions, so both of them ought to remember that such rough dealing with their Kings was always incident and common to all Warlike Nations, as is plain the *Romans* and others were; like fierce untamed Horses who tho' they be better for service, yet they are worse to guide and to be managed. But methinks in these days, this needs be made no objection by them, when all that's done by the *Scots* in that matter is but done in imitation of them: And tho' some latter Historians of that Nation are pleased with a deal of virulency to asperse us with selling our King *Charles* the First, yet they should blush to make mention of this (tho' it were true, as it is not) when they in
spite

in spite of all Laws, Humane and Divine, did publickly execute him in the Face of the Sun at his Royal Palace of *Whitehall*, whoever wou'd upbraid us with this sure the *English* cannot being he was delivered upon Terms to them, who upon the supposition of being his Loyal Subjects ought to have treated him more dutifully than they did. And it were to be wisht that the Parliaments of both Nations would make an Act discharging such scurrilous Libellers for the future; and that not only under a Penalty or a Pecuniary Mult, but also on the pain of being proscribed and mark't on the Cheek with the letter K. as the *Lex Remmia* of old doth enjoyn against all infamous Libellers. It is true indeed, the *Scots* Parlia-
ment hath made an Act to this purpose in full Terms, in which are Penalties Pecunial and Corporeal against the Contra-veners, and are equally guilty, as leasing-makers. But its as true they have let it in desuetude, because the *English* would make no such Act which the *Scots* were in expectation they would have done, so that when ever it comes to be done by both Nations, the *Scots* needs only to Confirm and Ratifie the foresaid Act; only this caution ought to be added, that when such Libells are spread abroad and Printed, the Stationers ought to be allowed to sell them because it is their constant Trade, and Custome, which ought to defend them from any Guilt, that might ensue thereupon, according to the opinion of *Colerius* * *Farinacius* and other eminent Lawyers.

Vid. Cic. & Cod. de jur. & famos. libel.

Act 9. Par. 20. K. Ja. 6.

* *Decision, 154.*

Thus as there can be no fair words in flying as we say to a *Scots* Proverb, so I must be excused here to recriminate against our Accusers

cusers, and leave them to be censured by the more Judicious of their own Country, for whom in the general I cannot but profess a great deal of respect, being they are a People that for their many Excellent and Heroick Qualities are the envy of their Neighbours about them, and who want nothing to compleat their Happiness but to have this Kingdom of *Scotland* once firmly united to them; *Vis unita fortior.*

C H A P. IV.

Of the Ingredients that make up a perfect Union, &c.

THat I may the more distinctly pursue my intended Method which differs but little from that, of those that have already treated on this Subject; The *Reader* may mind that in the former Pages I observed that the number of the Ingredients that make up one Union of two Kingdoms cannot be precisely determined, but the Parties Uniters made use of less, or more, as their Humour and Interest led them.

Language.

1. Then it's a good preface to our Uniting, that both Nations have but one Language, only that they use different Dialects and Accents in the pronunciation of Words, which needs be no stop to our being one People, more than it did the *Attick*, *Dorick* and *Jonick*, to be all equally called *Greeks*; and the different Dialects may rather add to the beauty and copiousness of the *English* Tongue: and as our Low Countries

Part I. of Scotland and England.

III

Countries differ in Dialect from the *English*, so our *Highlanders* make but the very same difference betwixt their Language and the *Irish*; which may be of no small use to *England*, when *Scotland* is once United to it. And as God sent confusion of Tongues among us as the first mark of division among Mankind; so he in his good Providence ordered that this Island should speak but in one Language, as a prævious disposition in all the parts of this Island of Britain to Unite in all other things necessary for living. *Unius labii populum.*

And if it come by some Capricio's to be doubted whether they'l part with their own Language and Dialect for the *English*, more then they'l do for them, these I say have never considered that the Antient *Scots* is that which is now spoken by our *Highlanders*, and which we generally lost since King *Malcolm Canmore's* time, in whose Court the *English* mostly prevailed, and thereafter diffus'd it self through all the civilized Parts of the Nation, especially in the Low Countries of *Scotland*, nor is it any rub upon the *Scots* Nation, being it was at the same time usual for the more Northern Courts to make use of the Language of the Country besouth it; did not the Court of *Rome*, notwithstanding of the Elegancy of the *Roman* Tongue and its being the common Language of the Western World, speak *Greek*? And both Courtiers and Historians were pleased to write their accounts of the *Roman* State, in that, rather, than in their own common Language, I need not go far for Instances to prove this, since every one may have the Books of *Antoninus Philosophus*, of *Halicarnassæus*, *Tolybius*, *Appian* and such like in their hands.

Doth

Doth not the Court of *France* speak *Italian* at this day, as the *German* Court speaks *French*, and the *English* *French* and *Dutch*, and so forth.

Name.

2. Since the Antient *Scots* Language is by Præscription almost entirely lost in this Nation, there needs be the less dispute about it now, and we may be soon agreed as to one Language, which is a very ready Key to the civil Intercourse and Commerce that may be mutually entertained by all the Inhabitants of this Island. And there may arise a greater Debate about one Name common to both Kingdoms; tho' in the common opinion of all that treat of this Subject, the Denomination of the whole Island ought to be now appropriated to *Scotland*, since King *James* the Sixth's Accession to the Crown of *England*; *Macedon* tho' one of the least Kingdoms of *Greece*, yet for all the wonderful Conquests its King made over the neighbouring Nations. he ceased not to be stiled *Alexander* of *Macedon*, and *France* tho' the least of all the *French* Provinces, yet gives the Denomination to all the other Kingdoms and Provinces adjoyned to it, when the King of *Denmark* joyned *Sweden* and *Norway* to his Crown, anno 1520. yet he still retained the name of *Denmark*, and the *Scots* having so long and so dearly payed for their Native Country, however mean and inconsiderable, it appears in the Eyes of the *English*, it was not to be wondered that they are fond of retaining the antient Name, especially when they are not provinciated nor subjected to *England*. but stands to this very day a seperate supreme independant Monarchy from it; nor, I believe, can it be instanced; that two independent Kingdoms

Part I. of Scotland and England.

113

Kingdoms, (as these are) did ever so part with their original Denominations as to lose it in a new Name, to be agreed upon as common to both: Yet it was wisely agreed to by the Commissioners that met at *Westminster*, anno 1604. that both shou'd thereafter go under the common Name of *Great Britain*: And yet some think it might add more lustre and glory to our Kings to be designed King of several Kingdoms, and to have them severally repeated, as the Kings of *Spain*, *France*, *Sweden* and *Denmark* are wont to do; Nay, the *English* themselves are fond enough of the Enumeration of the Titles of *England*, *Ireland*, *Dominion of Wales* and *Berwick upon Tweed*.

It was then also alledged, that by this new *Craig dest.* common Name the ancient Glory and Precedence of *England* wou'd be much tarnisht and *nione Reg-* and eclipsed abroad, and be now listed only among the later Kingdoms, all which objections were lookt upon to be of no Force, the main Point in Question being an empty Sound or Name. * These Commissioners did wisely * *Inane nō-* bury in perpetual oblivion all Seeds of *men* Discord, that might happen to grow up from a distinction of Names, and did agree upon the Name of *Great Britain* to be common to both. Nor is there any Precedency formerly due to *England* hereby lost, no more than when a Nobleman or Baron upon uniting of several petty Feuds into one, changes his Title, but yet loses not his former Place he was wont to take; and in this present Case *England* rather gains, than loses Precedency by being United to *Scotland*, for which I shall refer the Reader to *Butchanan*, and since

to Sir George Mackenzie's learned Treatise of Precedency, where he clearly proves there and in late Treatises against St. Asaph and Stillingfleet, That Fergus being Crowned King of Scots, 330 Years before the Nativity of Christ, whereas Polydore Virgil says, that Egbert was the first King of England who reigned 800 Years after Christ; and I have already observed something to this purpose out of Beda, William of Westminster and others, that I judge it needless now to stand any longer in proving it, * *Quis enim* (says the Emperour) *prior esse debet in uno et eodem genere dignitatis, nisi qui prior eam adeptus est*, so if there be any loss by this, it falls upon the Scots, but the Name of Great Britain is so august and antient a Title to our Kings since the days of Aurelius Ambrosius their first King, and since the Scots were still reckoned a part of the Isle of Great Britain, and by ancient Poets and Geographers called *Scoto Britanni*, it's most just that a part should be included under the general Designation of the whole: And Grotius* observes out of Livy that the Trojans and Aborigines did assume the common Name of *Latini* under Aeneas after they were once Incorporated and United. So the Celti and the Iberii were after their being United, called *Celtiberii*; Diodor. Sicul.

* Lib. 2. de
jure belli
& p.
Virgil Æ-
nead, 11.

There are several little questions raised by the learned Sir Francis Bacon upon this Point, as if the Stile or Designation of Great Britain shall be only inserted in the private Writs, and Rights of Subjects in both Nations, or to retain the antient Stile of Scotland, England, &c. and whether this Change shall be by Proclamation or by Act of Parliament? &c.

There

There are two other Questions consequent upon this, as that of the Seals and of the Imprest of the Money that's to be Current in both Nations, whether one great Seal shall serve both Nations, or shall there be two distinct ones? Or whether there shall be one great Mint for both, or two, to wit, one in every Kingdom? which with several other Questions may be seen in the Author, and since treated of by others to very good purpose.

See Paren-
nesis Paci-
fica lately
publish'd.

3. That both the Nations are already in the subjection and obedience of one Monarch, is a mighty step to the forwarding this intended Union, even in the Points they yet seem to differ; besides that it naturally takes away any debates that might arise touching any Leagues, Confederacies and Treaties to be entred into by either Nation, for it's not to be supposed, that the common Monarch of both, will let any of the Kingdoms enter into Leagues, &c. to the prejudice of the other, for that were to destroy the whole Island of Great Britain, which is committed to one Sovereign as its common Parent. The right understanding of this general will obviate any difficulties proposed about the Ceremonial or Material Crown as there he calls it, for when the two different Names of both Nations are once absorpt into that of Great Britain, both the Crowns should be melted in a good large one suitable to the New Title. To this Foundation also may be ascribed the removal and abolition of all the Hostile Laws antiently put in execution by the Inhabitants of both Kingdoms. As also the border Laws which may be put in the same Category with the former; Kind Nature con-

One Sovereign.

Bacon.

See Index
At Par.

curring with Divine Providence, hath let the Inhabitants of this Island plainly see, that both Kingdoms however they have been heretofore severed, may easily be moulded into one Monarchy or State, there being no Barrier to hinder, a full and free communication between them, no Sea nor Promontory interjected, only a small River, that a Sculler or pair of Oars may serve the turn in the most tempestuous Season. So that the whole Island may be accounted one Continent, which now being under one Supreme Head; the Laws made when they were severed and Enemies to one another may be easily obliterated, and general Laws made in both Nations by mutual consent to be ratified in both Parliaments for regulating and suppressing these antient Limits and Borders on both sides, and a new denomination common to both to be given them hereafter, for the better preventing all Discords among them; with a general Reservation only of the Sentences already pronounced and to be executed by the Wardens of both sides, and that no Criminal on the *English* side shall run in for shelter to *Scotland*, nor *Scots* to *England*, but be immediately seized upon, and delivered to the respective Wardens to suffer according to Sentence, then pronounced and given out against them; which is so just and reasonable in it self, as I believe none of either side will deny; nay, it's expressly conformable to the Treaties set on foot, *anno* 1596 and 1597, in Queen *Elizabeths* time; and agreed to by the Commissioners in King *James* the Sixth's time: and because at that time many *Scots* Criminals ran into *England*, and *English* into *Scotland*, the Parliament of *Scotland* did very justly ordain
by

Part I. of Scotland and England.

117

by an exprefs Act *Anno 1612.* That if any Englishman that had committed Petty Treason, Murther, Manslaughter, Felonies, Burning of Houses and Lands, Burglary, &c. should fly into Scotland, that the Officers in Scotland shou'd remand and send him back to England to be tryed and punished; upon the supposition always that the Parliament of England would make the like Act in favour of Scotland. This is what the Civil Law calls *Remissio*; which is wish'd may be yet put in force, and extended to Civil Debts; for the Reason of the Law is much the same as to these, and it looks ill, that one that's Rebel to his Majesties Horn here in Scotland, should be free whenever he gets over the Borders; and yet he is under the same Royal Power and Jurisdiction. But by the present Proposal of making one Kingdom of both, will soon remedy this evil.

Vide D.D.
Communitier.

There is yet another Question which may be Officers, thought to come under the general Head of Union under one Monarchy; to wit, That of Officers and Servants of the Crown, likewise taken notice of by the fore-cited learned Author, and that in regard of the inequality of both Kingdoms. There being so few Employments in Scotland, and these too so very mean, that as it's not to be thought the *English* will as readily seek after them, as the *Scots* will seek after these in *England*, being they are more advantageous and lucrative, and consequently more tempting. Besides this general Admission of Persons of both Nations indifferently to enjoy Publick Offices and Employments about the Court, would be a sensible Loss to the Natives of *England*; which could not be ballanced by any Offices they might attain

attain to in *Scotland*. On the other hand, it may be as reasonably thought, that since it is one of the Prerogatives of the **Crown** of this, as well as the other Nation, that the Supreme Prince or Monarch may chuse any he pleases to serve him in any publick Station, he being thought qualified for it, will, by the Union of both Nations under the Name of *Great Britain*, afford the Prince a larger Field of chusing Officers and Ministers of State, than formerly he had; for thereby the general Interest of both Nations would appear to be better and more unanimously managed in all publick Consultations relating to the common Good of the whole; and it would leave still some Seeds of Discord and Envy in both Kingdoms, that the Subjects of either, when capable, should be deem'd Strangers and Aliens, by being rendred incapable to serve the Monarch in any part of the Dominions of *Great Britain*. As this would foster lasting Jars and Animosities in both, and make them call to mind the old difference they formerly had when separate Kingdoms, so it would not miss to retard all publick Ordinances that required to be speedily issued forth, for the good and preservation of the whole Nation, especially in time of War: The *French* are a fresh Instance of this in the late War; for all the Kingdoms and Provinces that are joined to *France*, and tho' some of them have to this day their distinct Laws and Customs, nay and Parliaments too, from that of *Paris*, yet the King calls any Person he thinks best qualified indifferently out of any or all these Provinces, to serve him in the Publick, and to be Superintendant of the Finances, and the like;

like; nay, which is more, when the *Scots* were in League with *France*, that King was pleased to confer several Offices of Trust upon some *Scots Noblemen* that then served there, particularly upon the Earl of *Buchan*, who was made Constable of *France* by *Charles* the Hist. of France. Seventh, for his notable Services against the Duke of *Clarence*, as also upon the Duke of *Albany*, who was made a General in that Kingdom; and we see that Count *Lesly*, of the Family of *Buchoin*, was made Count of the Empire, and sits in the Imperial Dyet. I might instance several others of this Nation that were preferred to the highest Places of Trust in Foreign Kingdoms, as General *Ruthven*, King, *Douglas*, and *Lesly*, under *Gustavus* the Great, King of *Sweden*. And now when *Scotsmen* enjoyed such high Offices and Preferments abroad, when they could not expect so kind Entertainment from their Neighbours in the same Island with them; and when they exercised these high and mighty Offices with all imaginable Faithfulness, not only for the Glory of the *Scots* Nation, but also for the singular Advantages that thereby accrued to these Noble and Valorous Princes under whom they served. Is it to be imagined but *Scotsmen* may do so still in *England*, especially when by legal Priviledges they are invited thereto by their Monarch? And to bring the case nearer home, and to make the Argument the stronger, the *English* themselves were pleased to call from beyond Sea Generals to their Armies; thus were *Simon* Earl of *Montferrat* in *France* (who was made Earl of *Leicester*) and the Count of *Harcourt*, under *Henry* the Fifth, and the Count of *Nemours*,
I 4 under

under *Edward* the Second ; and why not then a *fortiore* may not the *Scots* be called to these or the like Preferments in the State and Army ? So *de facto* the *Scots* were by the Kings of *England* called to the highest Preferments in the Church : I shall not now stand to give instances of this, since *William* of *Malmſbury* has done it to my hand, and tells that Scotsmen were Consecrated Archbishops of *York* successively for several Generations ; and the Reverend and learned Dr. *Burnet*, now Bishop of *Salisbury*, is a fresh instance thereof, and Dr. *Crichton* the Author of the History of the Council at *Florence*.

To all which may be added, upon the natural Principles of Equality, that since the *Scots* must share in all Disadvantages now with the *English*, they ought also to share in the Advantages ; according to the fore-cited Rule in Law ; especially now that they have forfeited their Antient Priviledges in *France*, by espousing the *English* Quarrel, and Proclaiming War against it ; it would be expected that the *English* was to make up this loss to the *Scots* in all Points, nor will the doing of it lessen the Power of the *English* ; for any that's advanced to Places of Trust, will certainly give over thoughts of ever returning to *Scotland*, but rather settle where their employ most leads them, and bring all they have in *Scotland* thither : So that the loss is still rather *Scotlands*, than *Englands*, which will be enriched by it.

But e're this might create Jealousies among them, her Majesty may ordain the Subjects of both Kingdoms be rather preferred in their own Native Country, till a nearness of Acquain-

I.
Part I. of Scotland and England.

121

Acquaintance, and a mutual Education, and a firm lasting Union have fitted them to be indifferently Employ'd in the Publick. Which King *James* the Sixth's Decision in this matter, and recommended it so in that excellent Advice of his to his Son Prince *Henry*. That Wise and Pious Prince, out of his Fatherly Care of his Subjects in both Kingdoms, not only professed in Publick, and in his Private Speech to the Council and Nobility of both the Nations, but was satisfied that for the better Agreement of all his loving Subjects, it should be declared in the Act of Parliament then to be made, " That he meaneth not to bestow any Office of the Crown, or of Judicature, Place, Voice or Office in Parliament in one Kingdom, to be conferred upon the Subjects of the other, born before the decease of the late Queen (meaning Queen *Elizabeth*) until time and conversation have encreased and accomplished an Union of the said Kingdoms, as well in the Hearts of all People, and in the conformity of Laws and Policies of those Kingdoms, as in the knowledge and sufficiency of particular Men, who being untimely employed in such Authorities, could no way be able, much less acceptable, to discharge such important Duties. In pursuance of which Royal Resolution, the Commissioners then appointed for the Union did resolve, That it should be so Enacted for the mutual Benefit of both. *Vid. Tit. Cod. de Honoribus, &c.*

Basilicon
Doron.

These Commissioners proceeded to take to Trade: their Consideration, a Point of greater Importance

portance to both Nations than any of the former, which was the Freedom of Trade to be allowed the Subjects of both Kingdoms, either as to the Importation or Exportation of Goods. And first as to the Import of Goods; the Debate that then arose among them can now have no place, being that the Privileges the *Scots* had then in *France* and *Normandy* beyond the *English*, is now equally taken away from them, especially of late, since the *Scots* are embark'd with the *English* in all their Quarrels and Wars with *France*; whereby the *Scots* are visibly losers, without enjoying any Priviledges of a free Communication of Trade with the *English* to compensate it; and whatever Priviledges they had by these former Treaties of Union, yet since King *Charles* the Second's Restauration, they are sensibly deprived of all, to the no small loss and detriment of the Nation, and to the sensible Decay of Trade and Shipping in every part thereof.

Then as to Exportation of Goods, the same Commissioners solemnly agreed, That any Goods that were forbidden and prohibited to the *English* themselves, to be Transported out of *England* to Foreign Parts, the same should be unlawful for *Scotsmen* to Transport under the same Penalties that the *English* are liable unto, and reciprocally that no *English* Merchant should Transport any Goods prohibited in *Scotland* to *Scotsmen* themselves, but such Commodities as are Licensed to *Englishmen* to Transport out of *England* to Foreign Countries; the same shall be likewise allowed to be Transported by *Scotsmen*, their intimating their going into them Foreign Parts; and accordingly taking a Certificate, and paying

Vide Spot-
wood's Hist.
Fol.

ing the usual Custom that the *English* do pay at the Exporting of such Goods, and the like liberty be allowed *Englishmen* in *Scotland*.

As for the Native Commodities which either of the Kingdoms do produce, they may be for the mutual Use and Benefit of each other, without ever quarrelling the Importers thereof, except only such as are reserved for the proper and inward Use of each Country, to wit, Wool, Sheep, Sheep-fell, Black Catel, Leather, Hides, and Linen Yarn, which are specially restricted to each Country not to be Transported from the one to the other; and also reserving to the *Scots* their Fishing Trade within their Locks, Friths, Creeks and Bays within Land, and in Seas within 14 Miles of the Coasts of the Kingdom of *Scotland*, where neither *English*, *Dutch*, nor any others were wont to Fish; and reciprocally in point of Fishing on behalf of *England*. All which Restrictions, and Exceptions are not to be Interpreted as a Note or Mark of Distinction or Separation, but only to be considered as a matter of Policy and Conveniency adapted to each particular State, agreeable to the Law of Nations.

Vide *Selden. Mare. Claus.*

It was likewise then agreed unto, that all Foreign Goods to be Transported forth of *Scotland* to *England*, and out of *England* to *Scotland* by the Subjects of either Kingdoms, having at their first entry once paid Custom Duty in either of the Kingdoms, shall not be bound to pay outward Custom, at the Port whereunto they shall happen to be Transported; but that the owner of the Cargo, or the Factor, or Master of the Ship, shall give Bond not to Transport the same to any Foreign Parts.

It

It was likewise then agreed unto and descended upon, That *Scotsmen* should not be debarred from being assumed Associate into any *English* Company of Merchants or Traders, as Merchant Adventurers upon the same Conditions, that any *Englishman* may be admitted, and so reciprocally for *Englishmen* in *Scotland*.

But still with this Proviso, That the Export from the one Kingdom to the other, shall only serve for the inward Use of either Realm; and order taken for Restraining and Prohibiting the Transportation of any such Commodities into Foreign Parts; and for the due Punishment of such as shall transgress on that score, it was agreed on, That every Merchant thus offending, should forfeit not only the Goods, but also the Ship wherein the said Goods were to be found, confiscated, and the Waiters and other Officers of the Customs in case of connivance, knowledge, or consent, to line and lose their Office and Goods, and their Persons be Imprisoned at his Majesties pleasure; of which Escheats and Forfaultures two parts shall redound to the Fisk, if the Customs be not Farmed, and the third to the Informer, and if the Customs be set or Farmed, one third to the Fisk, a third to the Farmers, and the other third to the Informer; and the crime or offence to be summarily Proceeded against in either Kingdom, in the *Exchequer Chamber*, by Writ, Witness, or Oath of Party, or before the Justices by Jury or Assize; and his Majesties Officers in either Country, to concur with the Complainers who have Interest in the pursuit.

And for further security against any such Transportations, it was then agreed, That at

the Shipping of all such Native Commodities there be taken by the Customers of the part where the Goods are Shipped, sufficient Obligation or Bond, signed by the owner of the Goods, and Master of the Ship by the owner, if he be present, and by the Master of the Ship and Factor, or Party that loadeth the same, in case of his absence; which Bond shall contain a Sum of Money answerable to the value of the Goods, with Condition of Relieving the Party obliged, and discharging him of the said Bond, in case return be made of a due Certificate to the Customers where the Goods are Loaded, from any part within *England* or *Scotland*; the Certificate to be Subscribed and Sealed by the Officers of the Custom of the part where these Goods happen to come and be unloaded, or if there be no such Officers there, then by the chief Magistrate or Town Clerk of that Seaport Town or Harbour, under their Hand and Seal. What was further agreed to touching the different Fraughting of Goods in *Scots* or *English* Bottoms, and paying of Customs, was left as a Proposition to be offered to the respective Parliaments of both Kingdoms, for maintaining the Fishing of both Nations, who were to Establish it into a solemn Law, and to order that Shipping in *Scotland* should bear a better proportion in Burthen to that of *England*, for the better carrying on an equality of Trade, and be a common Wall of Defence to the whole Isle.

The Advantages of a Free Trade was proposed chiefly as the Issue and Result of a happy Union; so that it was strange to see, even after King *Charles's* Restauration, the *Scots* treated in *England* as Foreigners, and made

made to pay Taxes and Impositions which were only due to be paid by Strangers, when as they are born under the Allegiance of one King: But of this Point there is enough already said by me: Nay in *Edward* the Sixth's time *England* offered an equal Share of all Priviledges to the *Scots*, and particularly in Trade. *Sleidan* tells us, That the *Scots* were invited into an Union into one Common Fellowship, and Liberal Communication of all other Fortunes, &c. So that it's highly unreasonable to think our case should be worse now, than it was then, when we were under different Monarchs; and to lose our former Priviledges in *France* to get the like in *England*, and yet to misse them. If we look into Foreign Histories and Records, they'll tell us, That the Subjects of the different Dominions of *Spain*, are exempted from paying the Customs that are imposed on Strangers; and in the Treaty of Union between *Spain* and *Portugal*, the King of *Spain* offered an equal share in the Priviledges of Trade and Commerce, as by the Union of *Utrecht* all the different Provinces have the same common Priviledge of Trade, which they declare to be founded upon the universally received Custome of Nations. Our Saviour asks the question fairly of *St. Peter*, Of whom do the Kings of the Earth exact * Custome or Tribute, from their own Subjects or from Strangers? To which honest *Peter* plainly answered, from Strangers Lord. Then by a just consequence our Lord concludes their own Subjects are free: the priviledges of Trade were still reckoned by Lawyers to be *inter Regalia*, and so are to be ordered and regulated by them as occasion offers. Now where the Allegiance is equal, certainly

Mariana
Hist.

* *Κε'σ'ον*
a legal
Term, *Vid.*
tit. de Cen-
sibus.

Part I. of Scotland and England.

127

certainly the Priviledges of Trade should be equal too.

The Plantations they have abroad is the great Bugbear that frights the *English* from an Union in Trade, ought rather to be the motive to hasten and accelerate their Uniting in Trade; for these Plantations being too wide and spacious in themselves, and uninhabited for the most part; the *English* ought to invite the *Scots* thither to share with them, least by a constant Drain of People out of *England* to them Plantations, *England* at length may become it self waste, and so made a prey to its neighbouring Nation, to fall in upon it, and possess it. It's well known that *Barbados* and the other *Caribbee Islands* were found out, and planted, by the Earl of *Carrick* a *Scotsman*; and the *Scots* that were taken Prisoners at *Worcester* were all sent there to Plant and Cultivate, and yet the *Scots* should be debarred from having Priviledges in the very Islands they planted themselves.

It was strongly alledged when this Overture was first set on foot, as well as now, that *Scotland* wou'd be much enriched, by reason their Trade and Stock of Imported Goods would be enlarged in a little time; and I pray what then, when we are all one Nation and People under one common Head; but is it to be thought, but the *English* are still able to undersell us even at home, and carry their Trade with them, upon giving more ample Trust than the *Scots* Merchants are able to give, and have more fixt Correspondences than the *Scots*, especially now that *London* is to be the Metropolis of *Britain*, and the Great *Emporium* of the whole Island. It's just as if I should say,

say, that the Merchants of *Inverness* should carry away the Trade of *Edinburgh* from the Merchants there, tho' both Parties enjoy the same Immunities and Priviledges; which if I did, every little Pedler would tell me of my mistake. And tho' the benefit of free Trade were generally allow'd all *Scots* Merchants, yet the Profit would redound but to a few; whereas if the *English* Merchants that bring their Goods from Staple Ports, it's probable they would undersel the *Scots*, and so swallow up all their Trade and Traffick in a little time, at least they would enhaunce the gross of it, and leave the *Scots* only that small and pedling part of it, which would oblige them to give out much to Shop-keepers and Creams, upon long Trust; and this poor Branch of Trade would be only left them, being they could not wait the Returns. This seems to be a sensible Loss to *Scotland*, nor can I see it can be well remedied, but by our Apprentices that have good Patrimonies going to *London* to serve, and after they are Free to Trade here in *Scotland*, and be able to attend their Returns. But even this wants not its Inconvenience; for these Apprentices would readily live where they were bred, and if they once come to settle there, they would undoubtedly carry all the Product of their Commerce and Traffick to the place where they happen to reside: As we see those that are Born here in the North of *Scotland*, that go to serve Prentices at *Edinburgh*, set up there, and draw all they can thither, without the least regard or consideration of their Native Soil. It were also to be wish'd, for the further Encouragement of Trade in this Na-
tion,

tion, that it be Enacted, That any Merchant that shall happen to make a considerable Stock of Money by Traffick, shall be bound not to ware or lay it out on Land: For by Experience it is found, that all Trade and Traffick in this Nation is destroy'd thereby; and Commerce dies by Merchants turning Lairds; for when they should begin to Trade in Great upon considerable Stocks, they sleep away their time in some private Country place, and so the Trade of the Nation dwindles to nothing, at least to the small pedling part thereof, which deserves not the name of Trade. This evil has so overspread the Nation both South and North, that nothing less than an Act of Parliament can remedy it.

I shall not pursue this Argument of a Free Trade now any farther, being that some time since it was done by a Person of Quality, bearing the Title of *Parainesis Pacifica*; which so fully treats thereof, that I judge it altogether needless to insist any longer upon it, nor touch any thing proposed therein, only I shall wish what's there offered may have its due Weight with our Neighbour Nation. But one thing I'll beg leave to add in point of Reason, on this important Subject, which is, in a word, That the Scots are most willing to refer such as are not for this equal Liberty of Trade, and are too much addicted to their own Nation, to the Solemn Treaty that was set on Foot by King James the Sixth, Anno 1604. One Article of which Treaty was agreed to by the English Commissioners; to wit, That whereas Goods are Prohibited to be Imported to either Realm, that Prohibition shall equally extend to both: But if the

Commodities be made in either, it shall be Lawful to carry them from the one to the other. And by two subsequent Articles of the same Treaty, both the Exportation and Importation of Goods, as well from as to Foreign Countries, are to be regulated the same way in both Nations.

And by another Article it was agreed and condescended upon, *That the Scots and English Bottoms should be free in both Kingdoms, and might be indifferently Loaded, notwithstanding any former Prohibitions.* And the Reasons there given for this, is the common Defence of the whole Island, as was before observed. And the wise Commissioners that then represented *England*, would never have consented thereto, if they had not been firmly persuaded of its being just and fit for *England*, as well as convenient for *Scotland*; and yet for *Scotsmen* to be more debarred now, than before King *Charles's* Restoration (for in time of *Oliver Cromwell's* Usurpation the *Scots* enjoy'd a free Trade to good purpose) notwithstanding of his Majesties Act of Parliament authorising Commissioners in both Kingdoms to meet and treat on an Union, and particulary of Trade, is what the *English* cannot well answer for, without doing violence both to Reason and Common Justice.

I thought fit to subjoin here a Paper I had some time ago from a worthy Friend; which tho' tedious, yet I judge it not impertinent to the present Argument; and it's a Representation drawn by the Commissioners for the Kingdom of *Scotland*. Anno 1661. in relation to Commerce and Free Trade. The Paper is as follows.

WE

“ WE the Commissioners of and for the
“ Kingdom of *Scotland*, nominated and
“ sufficiently Authorised by his Majesty, un-
“ der the Great Seal of that Kingdom, to
“ Treat and Consult, as also to Conclude and
“ Determine with your Lordships the Com-
“ missioners nominated by his Majesty for the
“ Kingdom of *England*, for and concerning
“ the Freedom and Liberty of Trade betwixt
“ the two Kingdoms of *Scotland* and *England*,
“ do represent, That whereas his Majesty’s
“ Subjects of *Scotland* born under the Allegi-
“ ance of the King, since the happy Suc-
“ cession of King *James* to the Crown of
“ *England*, are so far from being Aliens, that
“ they are declared to have by the Law of
“ this Kingdom all the Privileges of Natu-
“ ral Born Subjects of *England*. And where-
“ as his Majesties Subjects in *Scotland*, and in
“ all the Dominions and Plantations belong-
“ ing to the Kingdom of *England*, more than
“ 53 years, without any considerable Obstru-
“ ction all that time; yet since the 25th day
“ of *March*, in the Twelfth Year of his Ma-
“ jesties Reign, by some Acts of Parliament
“ here in *England*, the King’s Subjects in
“ *Scotland* are freely debarred from the Pri-
“ viledges granted to all his Majesties other
“ Subjects; seeing by these Acts and Privi-
“ ledges granted to such Ships and Vessels,
“ as do truly and without Fraud belong to
“ the People of *England*, or *Ireland*, Domini-
“ on of *Wales*, or Town of *Berwick* upon *Tweed*,
“ and all other Ships or Vessels (without any
“ exception) with all other Goods and Merchan-
“ dises, are declared to be forfeited by other

“ Acts of Parliament ; since that time Goods
“ or Commodities of *Scotland*, or at some time
“ charged with a Duty, Custom, or Imposi-
“ tion, above sixteen Tun more than the
“ Goods of the like nature of Foreign growth,
“ and some unusual Customs are exacted in
“ *Northumberland* and *Cumberland*.

“ In order to the removing of all Obstru-
“ ctions of the Freedom and Liberty of Trade
“ between the two Kingdoms, to the end
“ the People of *Scotland* may be encouraged
“ to Trade here as formerly, and to Export
“ from the Kingdom such Foreign and other
“ Commodities as are necessary for them
“ (which we conceive to be a great Advan-
“ tage of this Kingdom) the Exported Com-
“ modities far exceeding those Imported hi-
“ ther, for encouraging the Shipping and
“ Seamen of *Scotland*, without which Trade
“ cannot be continued, and for preventing
“ the removal of the Trade of *Scotland* into
“ Foreign Parts ; which would be very pre-
“ judicial to his Majesties Customs in this
“ Kingdom (as we conceive) and to the hap-
“ py Union and Correspondence of the two
“ Kingdoms, which we do above all things
“ endeavour to preserve.

“ We do begin with that which was first
“ in time, and indeed of the greatest Import-
“ tance to *Scotland*, an Act (Entitled, *An Act*
“ *for Encouraging and Increasing of Shipping and*
“ *and Navigation*) passed in the 12th Year of
“ the Kings Reign, and ratified, confirmed
“ and enacted, in the 13th Year, cap. 140.
“ In relation to which Act, we desire first,
“ That as to the Trade with the Lands,
“ Islands

" Islands, Plantations, or Territories to his
 " Majesty belonging, or in the Possession of
 " his Majesties Heirs or Successors, in *Asia*,
 " *Africa*, or *America*; the same freedom may
 " be allowed to such Ships and Vessels as do
 " truly and without Fraud belong to the
 " People of *Scotland*, whereof the Master and
 " three fourth parts were *Scotsmen* or other
 " his Majesties Subjects, and Fraughted only
 " by his Majesties Subjects, as are allowed to
 " his Majesties Subjects of *Ireland*, Dominion
 " of *Wales*, and *Berwick upon Tweed*.

2. " That it be declared, That his Maje-
 " sties Subjects of *Scotland* are not meant to
 " be debarred, by the Clause debarring Men
 " or Persons not born within the Allegiance
 " of our Sovereign Lord the King, from ex-
 " ercising the Trade or Occupation of
 " Merchants, or Factors in any of the said
 " Places.

3. " That the Ships or Vessels belonging
 " truly to his Majesties Subjects of *Scotland*,
 " Navigated as is before expressed, and Fraugh-
 " ted by his Majesties Subjects, may be de-
 " clared to have Liberty to bring into *Scot-*
 " *land* the Goods and Commodities that are
 " of Foreign Growth, Production, or Manu-
 " factory, under the same Restrictions and
 " Limitations as are exprest ever since King
 " *James* came to *England*, is of absolute ne-
 " cessity for entertaining the Shipping in
 " *Scotland*, and keeping the Seamen there for
 " his Majesties Service, and will be an increase
 " of his Majesties Customs.

4. " That all other Priviledges granted by
 " this Act to the Ships and Vessels belonging
 " truly

“ truly to the Subjects of *Ireland, Wales,* and
“ Town of *Berwick upon Twede*, may be also
“ declared to belong to the Ships and Vef-
“ fels truly belonging to the Subjects of *Scot-*
“ *land*, and Navigated and Fraughted as is
“ abovesaid, under the same Restrictions and
“ Limitations always as by this Act laid up-
“ on the Subjects of *Ireland, Wales,* and *Ber-*
“ *wick*, that it may be declared, that the Pe-
“ nalties imposed upon Aliens for Trans-
“ porting Goods from Port to Port, and all
“ other Penalties imposed upon Aliens by
“ this Act, that the Subjects of *Scotland*, are
“ no ways therein concerned.

5. That whereas almost all the Ships and
“ Vessels belonging to his Majesties Subjects
“ of *Scotland* were, during the late Usurpati-
“ on taken, burnt, or destroyed, and many
“ of the Vessels taken or brought since his
“ Majesties happy Return, are Foreign Built,
“ we desire that all Vessels taken from the
“ King's Enemies, and Condemned as lawful
“ Prize, may be declared as Naturalized, as
“ is lately done here, and that they and all
“ such Ships as are truly in the Possession of
“ the King's Subjects of *Scotland*, may be de-
“ clared capable of free Trade here; as if they
“ had been Built within his Majesties Dominions;
“ a List of such Ships being enter'd betwixt,
“ and a day to be agreed upon, into the Custom-
“ Books here; provided that it shall not be
“ lawful for *Scotsmen* to Trade there with
“ any Foreign Built Ships to be bought here-
“ after, but only with such Ships as are Built
“ in *Scotland*, or some other of his Majesties
“ Dominions; and that both the Prize Ships
“ and other Ships now in the Possession of the
“ Subjects

" Subjects of *Scotland*, be Navigated by three
 " parts of four of *Scotsmen*, or other her Ma-
 " jesties Subjects, and Fraughted only by his
 " Majesties Subjects.

6. " And whereas it may be suspected,
 " that by demanding such a Trade with the
 " Plantations as is allowed to the Subjects
 " of *Ireland*, we may prejudice his Majesties
 " Customs here, or destroy the Ends of the
 " Act of Navigation, as to those Commodi-
 " ties, we declare that we are willing to treat
 " and conclude with your Lordships upon
 " such Assurances as can be reasonably de-
 " manded, that none of those Commodities
 " shall be Transported by *Scots* Ships from the
 " *English* Plantations to any places beyond
 " the Seas, but that they shall be wholly
 " brought into such Ports of *England* as shall
 " be agreed upon, excepting only such a very
 " small number for the Consumption of *Scot-*
 " *land* as shall be agreed upon betwixt your
 " Lordships and us.

Which Paper ministred so much Debate,
 that it moved our late Gracious Sovereign
 King *Charles* the Second, to set on Foot a more
 entire Union of both the Nations, having so
 long lived quietly under one Supreme Head,
 than was ever before proposed; and for that
 end to call the Parliaments of *Scotland* and
England to sit (if possible) at one time, that
 this Project might take the better effect, and
 the Subject of the Union fairly brought under
 the joint Consideration of both Parliaments.
 But since the Parliaments produced no effect
 answerable to the expectation of the *Scots*, they,
 it seems, *Anno* 1667 or 1678. did Remon-

strate against the Injustice done them by the *English*, and particularly in relation to Trade. Whereupon I saw a Paper drawn containing the Grievances of the *Scots* Nation, and the hard Usage they meet with in point of Trade, ever since King *Charles's* Restauration; of which Paper and some of the Clauses that might have hindred an Union of these two Kingdoms, we shall hear anon.

And that I may not be embarrassed in my Method, but follow my Lord *Bacon's* as I have hitherto done, I shall proceed next to consider the Causes of an Internal Separation (as he is pleased in that Discourse to term them.) And first of distinct Parliaments.

Bacon.

S E C T. I.

Of the Internal Causes of Separation of the Two Kingdoms; and first of distinct Parliaments, &c.

THE High Court of Parliament rightly Represented by Sovereign Authority, being the Original Source and Fountain from whence Laws as so many Rivulets stream forth, for securing the Subject in his Liberty and Property: It needs not much be wondred, that the *Scots* Commissioners would never in any of the former Treaties betwixt them and the *English*, consent to an Union of Parliaments, so as to mould both into one common Parliament of *Great Britain*; being they well knew their consenting thereto would be an impairing of that full Representation in Parliament that

that the Fundamental Laws of the Nation, do strictly enjoyn and require, and that among many others, for the following Reasons.

1. From that Principle which the Philosopher in his Politicks makes the Root of all Dissention and Division in the common Societies of Mankind; to wit, Equality and Unequality in the Persons thus Associating: For the Treaty now proposed, as well as in former times, is mainly to observe, that a just Equality be maintained betwixt both Nations: But there could be no equality, if it should be granted that *England* should still keep all their own Representatives, and Retrench the *Scots*.

The *English* cannot now offer worse Conditions to the *Scots*, than they formerly granted to such parts of this Isle as was subdued and conquered by them; yet these are as fully Represented in Parliament, as *England* it self is: Witness the Dominion of *Wales* and *Berwick* upon *Tweed*, &c. And why ought not the *Scots*, without being Conquered by them, claim to the same Priviledge and Favour, now that they are so willing to Joyn and Unite with them. And if the *Scots* were invited by their King *Edward* the Sixth, in the year 1547, into a common Fellowship, and liberal Communication of all their Fortunes (as was formerly observed) out of *Sleidans* Commentaries) why should they now be debarred, when they seem to be more unite in Affection and Interest.

But if all the *English* Nobility be received, and some of the *Scots* rejected, and their Counties and Burghs sit in Parliament, whilst some

of

Polit. 3.

of the *Scots* are kept out, there should be no Equality in their Representation; as ought to be observed, according to the fore-cited received Principle of the Philosopher *Aristotle*.

2. The Aim and great Design of this Union, was to Unite the two Kingdoms, which could not be affected without the two Parliaments were first United: For Kingdoms you know are but the Collective Bodies of the People represented by their Parliaments: So when we commonly say *Scotland* hath declared War, or Peace with *France*, it would be as much as to say, That the King and Parliament of *England* hath declared War, or concluded Peace with *France* or *Holland*; for so the Word would import in common Propriety of Speech. It ought then to be concluded, That the Parliament of *Scotland* consented to this proposed Union of the two Kingdoms, because they thought it never imported an Abolition of their own Power, but only an Union thereof with the Parliament of *England*. And to pursue this Argument a little farther, I may say not only the Words wherein this Union was propounded, but the very Nature of it necessarily implies so much; for Kingdoms which are Bodies can never be said to Unite, if they be not first united and linkt together in all their Members; for what is a Body but so many aggregate Members closely conjoined together, whether Integrant or Subjective, as they are commonly Classed or Distinguished by those that treat of the Publick Law. And therefore if the Kingdoms are to be United, then consequently all the Integrant Parts of the Parliament of *Scotland*, must needs be united to all the Integrant Parts

of

of the Parliament of of *England*. But so it is, that the Bodies of both Kingdoms are made up of the Clergy (of which there is no Representative in Parliament at present,) Nobility, Shires, and Burroughs, which to innovate or alter, would not be to unite, but rather to separate and destroy these Bodies.

Let us but cast an eye upon a Confederate Army and we shall find the Argument to hold *a Pari*; for if two Armies be joyned into one Army, or two Regiments or Troops in one Brigade, These Regiments and Troops would not be Disbanded nor Dissolved, but continue and stand in their former Integrity as before; and act their Parts in the Common Cause as if they were separately considered; which should hold so much rather in this case when both Nations were by a special Providence distributed into the same Classes and Degrees; to wit, *Clergy, Nobility, Shires, and Burrows*. So that there is no such necessity for a New Constitution as if either of these were to be differently distributed: Whereas to fall upon a New Method of bringing both Kingdoms to a New Equality would be found impracticable, at least would breed more trouble and raise greater Heats than the difficulty now proposed doth deserve: And whatever precautions might be now used, Her Majesty or her Royal Successors might afterwards change the measure of these first proportions by a new Creation of Noblemen in either Kingdoms, which cannot well be taken from Her, it being a special Branch of the Prerogative. If then it naturally follows upon the conclusion of an Union betwixt the two Nations, That no Innovation should be made, the several States of the

the Parliament of *Scotland* ought to be debarred by any New Articles, but rather upon the Conclusion of such an Union, they have the undoubted Right and Priviledge to sit in the Common Parliament of *Britain*, and consequently to agree now to any Article which might exclude the *Scots*, would not be to Unite both Kingdoms, but rather to enlarge the Priviledges of the one by destroying, that of the other; at least it must be said that these *Shires* and *Burrows*, that are not represented at that common Parliament are not united, and come not under the Verge and compass of any Treaty, whereby such an Innovation is consented to. Nay, if any of our *Scots* Representatives were by such an Article excluded, it would not miss to keep up a perpetual Mark of distinction betwixt both Nations, to remove which being one of the chief Designs of this Union: It's not to be expected that the *English* will demand a thing so destructive of it, for at this rate a Nobleman, Gentleman or Burgeß is to be kept out of the Parliament only forsooth, because he is a *Scotsman*, and if a *Scots* stomach can bear with such an affront as this I leave it to the Reader to judge.

3. In the third Place it might be also urged, that since the former Commissioners did agree that the Laws of both Kingdoms shou'd continue distinct as they were at first without any alteration; then by the Laws of *Scotland* every Shire and Royal Burgh shou'd be represented, and every Nobleman shou'd Sit in Parliament: and therefore all the Laws being reserved intire to both Kingdoms, it's not to be imagined that the most fundamental Laws shou'd suffer a Change.

But

But here I foresee an Objection used with a Protestation by my Lord *Bacon*; that *Scotland* in extent and quantity is not past a third of *Britain*, and that *England* is two Parts of the Isle, if then *Scotland* should bring to Parliament as much Nobility as *England*, a third part should countervail two parts, &c. It's like this Objection may not yet at this very day want its due weight with the *English* Nobility, and no doubt but such a numerous Nobility in so narrow a Kingdom might give them Umbrage. and encline them to seek for a restriction of their Number, when they Sit in the Common Parliament of *Britain*, since they'll bear but a thirtieth Part of the Publick Burdens in proportion to *England*. However specious this Objection may seem, yet the Answer is obvious if we consider, that the fundamantal Error of considering the two Kingdoms as still distinct, and of different Interests now when they are once United has occasioned this Objection, for they are no sooner United, than they'll be justly look't upon as one entire Nation, and so drive one Common Interest for the good and preservation of the whole; so whatever part or share of Publick Burdens *Scotland* is to bear in Proportion to *England*, is not the Question here after both are Joyned into one Common Interest: I hope there are Counties and Shires in both Kingdoms that pay but a very inconsiderable part of the Publick Impositions and Taxes in respect of other Shires. The Shire of *Cromarty* is as fully represented in Parliament as the Shires of *Ross* and *Inverness* that pay the Quadruple of their Taxes, and the Town of *Dornich*, as *Aberdeen* or *Glasgow*. Indeed if the Interests of both Nations were

were to be look't upon still as distinct, and that there were probable grounds of fearing that each Nation wou'd side with its own ancient Members and Representatives when they should come to that Common Parliament of *Britain*; then each Kingdom shou'd either have its negative as the Province of *Utrecht* and other Provinces in *Holland* hath, or else the Common Parliament should consist of one equal Number of either Nation as in *Charles* the Fourth's time was done in *France*, tho' yet there was a great inequality betwixt the two Parties that represented: If any difference happen to arise which might divide the Parliament and Persons be over-swayed by National Interests; the *Scots* will be as well out-voiced, when all their Parliament is joyned in with that of *England*, as when they are represented by such a Number as holds proportion to the Burden they bear, and if no such National Difference happen to arise, then methinks the *English* need not make so much bustle about the Number upon the score of inequality or a pretended disadvantage by the *Scots* Peerage that are to Sit in the Common Parliament of *Britain*.

Indeed, the expedient lately fallen upon by a Person of Quality, in the forecited *Parainesis*, to salve this difficulty, is the most ingenious of any that have hitherto attempted it; yet may not answer the whole difficulty. For it may well be supposed, that the first Choice that's now to be made of Noblemen, out of others to Sit in the Common Parliament of *Britain*; is to be done with all imaginable exactness, not only for doing Justice to such of the Nobility as may be left out, but for the Honour

nour and Security of our Nation, to have the fittest of that State chosen and pickt out of the rest; so that this choice and supposed alternate Election will turn to be a standing Rule * and President for future Elections and it's ten to one but they'll hold still to the first for the Reason now mentioned: And since in common reason it self they may not well do otherwise while these Persons chosen, do live.

* *Nobilitas sola est, atque unica virtus.* Juven. Sat. 8.

I know there be some Levellers and democratick Spirits, otherwise ill mannered, who value not to cry down this Ancient and Honourable State, and plainly tell us, *That they are too many by the one half, and serve only to oppress the Liedges, and therefore they may be as easily dispensed with and discharged as fringed Cloaths and Gloves were of late:* But this is too flat, and merits not an Answer nor any regard by Men of sense and breeding.

But if nothing can satisfie the *English*, but a lopping of so many of our Nobility, e're this Common Parliament of *Great Britain* be constitute, may it not be agreed to by both Parliaments, That Her present Majesty and Royal Successors shou'd in their Princely Wisdom allow that there be no new Creation of a Peer or Nobleman in either Kingdoms during this Century, 1700. Or to lop off all that were created such, since the first Treaty 1604. Or the last Treaty 1700, and to reduce them to their pristine state of Gentlemen, only they may be declared the first Gentlemen of the Nation, for some hold that the State of Nobility is not properly a Right but a certain Privilege or Station in which a Person is set above others, and of old *Jus Nobilitatis* was but *Jus Imaginis*,

Sigon.

Imaginis, which was their keeping their antient Coats of Arms. As this propofal is confonant and agreeable to the Reason a little before offered, fo it puts them that are not chofen or Perfons that have the luck to be chofen, out of the fret, and difcontent, they wou'd be in otherwife. And by waiting for a new Election they might come to be eternally tantalized, which in the end might make ill blood.

Sir John Nisbet.

That the Parliament of *Scotland* cou'd not confent to an Union of Parliaments, tho' all its Members were admitted, is told us by a late Author difcoursing upon the fame fubject, was ftrongly urged by a learned Lawyer, and one of the Commissioners that then went up for this Nation upon the fame Errand, and contended that the Commissioners appointed for the Treaty of Union cou'd not be impowered to divest the Electors of that Power, and founds his Reasonings on the Principles of the Civil Law, and the Laws of this Nation particularly, *Act 130. Par. 8. K. Ja. 6.* By which it's declared to be Treason to take away any of the three Estates, or make any Innovation upon the Constitution of the Parliament. And tho' the Design of the Act was againft thofe who at that time endeavoured to exclude Bifhops from the Parliament, yet that learned Lawyer it feems was furnifhed with Topicks from it, to maintain the prefent Argument. But had this Author been pleafed to have confulted *Sir John Nisbet's* Succelfor he wou'd have furnifht him a greater variety of Topicks from

* *Sir Geo. Mackenzie's Obfer-
rvat. on
Parl. 17 K.
Jam. 6.*

the fame common Principles, which becaufe I judge them tedious * here to insert, I fhall remit the Reader to the Author himfelf, who manages this Argument to greater Advantage, than any other I have yet feen. But

But it's pleasant to see how strenuously these learned Lawyers (who have been successively Kings Advocates) plead for Fundamental Laws and the Privileges of the Subjects to be kept inviolable, in spite of the Royal Prerogative; which upon other occasions was so much exalted by them. But this is, when Lawyers begin to feel themselves par'd to the quick, and their Copy-holds, I mean the Advocate Trade, invaded and run down, by offering a new Scheme and a new Place, no doubt much better than old musty *Edinburgh*, for the Common Parliament of *Britain* to sit in: And what's the National Loss by moulding the Parliaments and Courts of Justice of both Kingdoms into one, as well as the Kingdoms themselves? There are not a few that think it rather the benefit of the Nation in general, that Grass should grow in the Parliament Close, and the Advocate's Fold broke on the broad side, that such as are penn'd therein might get out to the Country; others of them to the Army; and a third to the Church; and leave the shadow of a vain imaginary Employ, to such *Beaux* as love to beat down the Causey all the year long, and may be of little use either to Church or State. However this may be the Sentiment of a considerable part of the Nation, yet I dare not profess my self to be of their number. *

* *Furber's*

But to come more close to the Point in hand, against these great Masters of Law and Reason; I can never see how a firm Union can be Established, whilst there are different Supreme Courts of Parliament set up in both Kingdoms, that may oppose the Resolutions and Determinations of one another, and so trouble and

L

embarr

embarrass her Majesties most important Affairs, whose time of necessity must needs be much taken up in allaying such Heats, and reconciling such Differences, when e're they happen to break forth. But sure it were better both Parliaments were joined into one, that so one joint Measure might be firmly taken against the common Enemy; who certainly must needs gain ground daily by our intestine Divisions, and expose us to the fury of his first Assaults upon us, which are ordinarily the most fierce and dangerous: As it's said commonly of the *French*, that their first Assaults are the most Impetuous. But where there is Unity of Counsel, then all the Wheels of the Commonwealth move readily and equally, and the Enemy will think fit to stand back, and consider that they are not now, when they are United, to expect the Advantages they proposed to themselves to have, as when they were swayed by separate Parliaments, and different Interests. And being once firmly linked and united together, as the Pride and Ambition of wicked Princes will not be able to make us the Instruments of their Cruelty, by Maligning and Persecuting one another; so our Just and Pious Princes need not fear that we will oppose one another, in obeying their just and equal Commands, it being our Interest, as well as our Duty, to comply with them.

2. As separate Parliaments in different Kingdoms (tho' under the specious Denomination of being one) will readily be pursuing different Interests; so it may give occasion to the common Enemy to expect Assurances from, at least one of the Parties, who out of jealousy to the other, might be prevailed upon to li-

sten

sten to their Insinuations, and the other may be in the mean while debauched by *French* or *Dutch* Gold, or some such powerful Agents, and so none of the two might come to act so Vigorously against the Enemy. *English* History affords us several Instances of this. When the *Romans*, *Danes*, and *Normans* conquered their Country, by the Arms of their Neighbours. So also in the late Civil Wars, jealousy made those of unstable and Rebellious Principles often change the Scene; witness *Oliver*, *Lambert*, and others.

Baker's Chronicle.

3. By our having separate Parliaments, &c. our case would be just the same with that of the *Irish*, who were Subdued and Provinciated by the *English*; they continue to have their separate Laws and Parliaments; nor has any Baron there a right to sit as Peer in *England*, as those of *Wales* hath; nor are the *English* Laws observed in *Ireland* as in *Wales*; and no doubt the *English* hath granted the *Irish* the liberty of enjoying their own Parliaments and Customs, meerly as a mark of Distinction, to let the World see that it was all the Privilege that was left them, after they were totally Subdu'd: * And may not the same be said an hundred Years hence of *Scotland*; tho' now it being entring into a voluntary Union with *England*, as a free Independent Monarchy; the Lawyers plead for Fundamental Laws, in this case to have them reserved entire; and here I plead, That after a Plan of an Union is agreed to in all other Points, it ought to prevail in this Point too, that all things may be complete and uniform; being you see the contrary, by the Example of *Ireland*, is highly Derogatory to the Sovereignty and Independency

*Panem & Circenses Juven.

Method.
Histor.

cy of this Antient Heroick Kingdom, who seldom or ever ceased generously to wrestle for the Antient Glory, and Pristine Liberty thereof, when infested or attacked by their Neighbours; insomuch that *Bodin* tells, That they have most obstinately Contended for Victory above two Thousand Years.

Indeed the specious Reasonings of the fore-cited learned Lawyers, cou'd not miss to have Weight with those that considered the two Kingdoms only distinct, and not as integral Parts of the *totum* of *Britain* when now they are United. The not apprehending of this rightly, I presume to think, has been their *πρωτον ληρον*. Shall we talk of the Fundamental Laws of a Nation that *fictione Juris*, is not supposed to be now in being? These Fundamental Laws go off alike with the Nation it self, and are pulled up by the Root, when the Nation is Incorporated with a greater, or with one equal to it. Whenever a Nation ceases to be distinct, its Fundamental Laws respecting it as such, must also cease and fall in consequence with the Subject about which they are versant. Yet so far I agree with these learned Lawyers, that there ought to be a true and full Representation of all the States of *Scotland*, in the common Parliament of *Britain*, if the *English* will have all theirs to be present, at least when any National Difference doth arise, And in this Sence I take the Overture about the Elective Vicissitude of our *Scots* Peerage, by the fore-cited eminent Author of the *Parainasis Pacifica*, pag. 2. Did we truly understand the true Purport and Design of the Union, we wou'd not fear over Voting, and

National

Part I. of Scotland and England.

149

National Jars and Differences, being that the main End and Genuine Effects thereof, is to remove all National Differences, and to mould us and our Interests into one common Mass or Lump, Only for the ease and conveniency of both Kingdoms, it is to be wisht, a fit place be chosen where the Parliament of *Great Britain* is to sit; which if once done, and that Lawyers may have the opportunity of gaining a little Money by attending it, the great Noise and Debate we find they make about separate Parliaments and Fundamental Laws of Nations, will soon go over, as some think; but the *Scots* will think *London* too far off, and some place on *Trent* fitter for both.

S E C T. II.

Of Different Laws,

After the Business of one common Parliament was Debated and Considered, the Commissioners, it's like, fell in order to the adjusting of the Laws; for Laws could not well be made, until the ordinary Judicatures that make them were first Established. Albeit my Lord *Bacon* it seems thought otherwise, against the common Rules and ordinary Method. But to make a Digest of the Laws of both Nations, appear'd to be an infinite Work; and therefore they agreed, that each Nation should keep its own Laws and Customs entire, even tho' they be United: As was agreed in the Articles of Union past betwixt the *Poles* and those of the Dutchy of *Lithuania*, it being natural

* Philip II.

for the People of all Nations to seek to enjoy that Independency and Supremacy they had at first. Any that reads *Mariana*, and the latter Histories of *Spain*, will tell you, That when all means were used to unite *Portugal* with *Spain*, and tho' the King of *Spain* * was absolute Master of both, yet to keep the Laws of both Kingdoms entire and distinct, was one of the main Conditions of the Treaty: Nay the *Spanish* King at this day must at his Inauguration solemnly Swear, to maintain the different Laws and Customs of the United Countries of *Castile*, *Aragon*, *Catalonia*, and others. The same I find agreed to in the Union of the Northern Crowns under *John* the First, and several other Instances of this Nature among Writers of Histories and Publick Law. Look we into *France*, and enquire what may be the reason that there are so many Parliaments there, and we'll find the reason thereof to be, because whenever any Kingdom or Province was united to it, there was an express Reservation made of their being governed by their own Laws and Parliaments.

The difficulty of attaining to the knowledge of Laws and Customs with which we were not at first inured, makes the Article of each Kingdoms reserving its own Laws, the more reasonable; for as the *Scots* would find it very irksom to learn the old *Norman* and *Saxon* Laws, together with the Customs of their Reigns, and the infinite Variety of Forms of Pleading before their respective Judicatories: So the *English* would be as much weary of our old Feudal Laws, Customs, and Forms of Process used in *Scotland*.

Upon
Upon

Part I. of Scotland and England.

151

Upon which account I foresee an Objection not unreasonably drawn by the Lawyers, that maintain the Necessity of having separate Parliaments in Britain, and they infer, *That difference of Laws ought to make a distinction of Parliaments, and that the Parliament of Great Britain will not understand to make Laws for Scotland; and therefore they ought to continue separate Judicatories, for the better Cognition of Causes, and the Native Customs of each Kingdom, &c.* But by their leave, albeit the inference they may draw from what is already said, of the Practice of other Nations; yet the consequence of our having different Parliaments hereafter, because we have had hitherto different Laws, is not good, nor the Reason given thereof any better: For if there be a full Representation of Scotland to sit in the Common Parliament of Britain, then there will be found as many Members to understand the Laws and Customs of Scotland, as there were when Scotland had its own separate Parliament, and the English (who are confest to be an ingenious teachable People) will in a little time come to the knowledge of the Scots Laws and Customs. And it's like to give a Temperament to them, that the Humour of the Scots, while in a separate Parliament by themselves, hath not been yet able to effectuate: And since Laws are ordinarily made by Parliaments, and not Parliaments by Laws, the Inference of making separate Parliaments, because of separate Laws, cannot therefore be good; and all that these learned Lawyers pretend thereby, is in case of any National Difference; which, as was observed in the last section, is their Original Mi-

Sir John
Nisbet, and
Sir George
Mackenzie.

stake: For if once both the Kingdoms were firmly United in Affection and Interest, and had one Common Parliament pursuant thereto for the common good of the whole Island of *Britain*, we need fear no out-voiceing in Parliament nor National Differences, since the Cause of all such foolish Heats, Jars and Differences wou'd be removed, and in place thereof Love and Amity maintained among all its Members.

The causes, why the *Scots* and *English* Laws upon Collation of both, cannot be so easily adjusted, as to make them one intire Systeme, are, That the one is too literal and precise, the other, too loose and Arbitrary. We of *Scotland* derive our Laws from the Principles of the *Roman* and Feudal Laws, and the Conclusions of the Doctors, which give our Lawyers full Scouth when they come to debate for their Clients; The *English* on the other hand make little or no use of the *Roman* and Feudal Laws, but stick close to their Statutes, Precedents and Cases, whereby their Lawyers are Extreemly bound up and muffled in their Pleadings, and here it may be justly wondred, that the *English* who were Conquered by the *Romans*, make less use of the *Roman* Laws and Customs, than the *Scots*, who never submitted to them. Which as it shews the great care and Impartial study the *Scots* wisely gave to Excerpt and collect their Laws from those of *Rome*, and other wise Nations; So they ought now to be the more valued and Esteemed by our Neighbour Nation: who only formed their Laws from the Experience and Customs of their rude Ancestors, and not from *Greece* or *Rome*; as Sr. John

Davis
d. 1651

Davis, one of their Eminent Lawyers vainly boast; wherein they Act contrary to the method of Philosophers, and the common Sentiment of Mankind; Which would have good Customs Introduced to back and confirm their Laws, and not Laws to flow from these Customs, as the *English* now have them.

And therefore to make an Union of Laws, ^{There may be other causes of hindering this Union of Laws, as that of the different Constitution of our Governments, with respect to Regal Power, &c. Which now I need not stand on.} It were adviseable that the Parliaments of both Kingdoms, might Select and pick out the most Eminent Lawyers in both, and ordain them to Collect all the Laws of their Respective Kingdoms that are in force, into one Pandect or Systeme, and the Customs and Unwritten Laws, with the Edicts and Rescripts of former Kings into another Systeme or Codex. And when that is once done, then these Select Lawyers of both Kingdoms be obliged to meet and to Communicate to one another their different Systems, which when done and Maturely considered by both, and separately Collected by all: Then to try if the Collection made of the *English* Laws, by the *English* Lawyers, and the *Scots* Laws by the *Scots* Lawyers can be moulded so into one Digest or Code: As in one Age or so the Subjects of both Kingdoms might with facility come to the knowledge of them, and Lawyers come to a perfection in the Study thereof. For which end there may be *Schola illustres* set up to teach this new composd Body of Laws alike with that of the Civil Law, and competent Salaries appointed for Professors; which as it would instruct our Youth with the early Knowledge of our Laws, (to which most part of them are still Strangers) so it would keep them from going to *Holland* or *France*, to spend their

their Strength, Time and Money to very little purpose ; and all we bring home is some *Dutch* and *French* Fashions, and Notions altogether repugnant to the essential Constitution, as to the genius of this Kingdom.

And if a Student happen to get his head filled with Notions of Civil and Publick Law after he has stayed some years there, by a fit of an Ague or some such rotten Fever, he is in a trice bereft of all the knowledge of the Laws he had attained, and forc'd to come home for his Health, and so to begin again his Study when he is not near so fit for it. When as had he been at home breathing his own native wholesome Air, he wou'd be a better Proficient and consequently much fitter to serve his Country. Experience (which is the Mistress of Fools) has I may well suppose convinced not a few of the Faculty, and the Author among others, at this day of the truth of this. By this rambling in Study our Students lose their Health and Time, and our Country their Money and Substance, which two Ills cannot well be remedied but by the entertaining this present proposal, which as it directly tends to the good of the whole Nation, so in particular to the benefit and advantage of all such as follow the Laws.

But to return to the former project of Uniting the Laws of both Nations it's humbly judged, that this Work tho' great and difficult in it self, is not insuperable when the most select and learned Lawyers of both Nations once set their Heads to it, and collect for example what's in force, and proper for the Security of the Subjects Property and Liberty, and the Books to be found in the Book of

Regiam

Part I. of Scotland and England. 155

Regiam Majestatem by *Glandvile*, and the Books of Feuds by learned *Craig*. * As also in the * *Mackenzie, Dune, Hope, Stairs and other eminent Lawyers of our Nation.* Acts of Parliament both printed and unprinted, and in the Decisions of the Lords of Session and Acts of *Sederunt* made by them since the Foundation of the Colledge of Justice, and leave out all obsolete and antiquated Laws as Trash and Rubbish of no account. And on the other hand, if the *English* Lawyers should faithfully collect out of *Littletons Institutes* and *Cook* thereon, out of *Plowdens Commentaries*, *Fortescue*, *Sir John Davis*, *Bracton* and others, and then go through their Statutes and Acts of Parliament, their Presidents, and Cases, which answer to our Decisions, and keep out what's unnecessary and in desuetude: This Proposal might not appear so impossible as at first view, to such as are unacquainted with them.

Neither Nation hath borrowed their Laws from a *Solon* or a *Lycurgus*, nor yet depended on the *Responsa prudentum*, whereby the Wisdom of these Nations, doth manifestly appear; that the whole Body, at least the Representatives of them, are capable to make good Laws, then that one single Man among a Thousand, is only so, and all others hang at his sleeve. And tho' some may not think it a difficult thing to judge of the worth of a Nation, by the goodness and expediency of its Laws and Customs, and thereby render the People subject unto them good and virtuous; yet if People once get a wrong Byass clapt upon them and be corrupted in their Manners, so as they cannot sute with the Tenor of such good Laws: This inability or incapacity in a People, will make the Laws (be they never so good)

good) of no force or effect; being they have not their full course and extent, and I shall wish this may not be one of the Causes that may hinder this Proposal of an Union of Laws to go on.

Appeals.

It seems there arose some Debate among the Commissioners about Appeals which here I have inserted for Methods sake; the *Scots* wou'd have them confin'd only to the Supreme Judiciary of that Nation in which the Appeal was made, and not to the Common Parliament of *Britain*, lest it might be thought to derogate from the Honour and Sovereignty of these two independent Crowns, and I shall not say but this Position of our Lawyers may be agreeable to the Text of the Civil Law. * But

* *Vide Tit. F. appellationibus. Guidon. p. Tractat. de appellation.*

their arguing on this Head is much of a piece with that of our having distinct Parliaments, and they ground their Arguments upon the same general Topicks of the Civil Law, and Acts of Parliament, and on the fundamental Laws of the Nation too; all which some People think is done *ob commodum curiæ*. But if the Common Parliament of *Britain*, be once fully established, and seated in a place convenient for both Nations, as has been already proposed, all their Reasonings on this Head will soon vanish of themselves without a contradictor, and therefore I judge it here needless to pursue this point any farther.

These with some other Articles were proposed and canvased by the Commissioners of both Nations in former Reigns, and for the most part agreed to: But what shou'd have hindered their having a desirable issue will be partly told in the next Chapter.

Thus

Thus I think I have traced the Learned and Noble Sir *Francis Bacon's* Discourses on this Head, and have observed this Method, *Kata' nodas* so far as the present occasion would allow me meerly that matters might be the better set in their true Light, and that by taking a full view of what was agreed and condescended to (tho' nothing fully determined) in former Reigns: Our present Commissioners for the Union might make the better Judgment of things as they occur, and have these Collections purposely made by, Zealous, honest Countrymen, as so many Meiths and Beacons set up before them, e're they unwillingly stumble or go beyond the true limits of their Commission, which might prove so derogatory, and so prejudicial to the Safety and true Interest of the Nations.

E're I end this Important Subject, I would beg leave to mind the Commissioners that are now to meet, that they would be pleased to represent to the Parliament now Sitting, the necessity that's upon the People of this Nation, first to Unite among themselves, e're they step abroad to enter to a Treaty of Union with the Neighbour Nation.

S E C T. III.

Of the Necessity there is upon all Scotsmen to agree among themselves, particularly with respect to the Highlanders.

IT is well known that as this Nation is spacious and hilly, so the wise Author of Nature has suited and adapted the Genius and Tempers of its Inhabitants, to the Places and Climates where they live. Thus the Inhabitants that dwell and frequent them ridges of Mountains, and great Tract of Hills that lie to the West and North of this Kingdom, are commonly call'd *Highlanders*; who are a People inured to a different way of Living, and have far different Fashions from the People of this same Nation, that reside in the Valleys and Low Countries thereof; and these *Highlanders* look big, and fancy that their very Commons are of a nobler Extract, than those of the Low Country, and can perform greater and nobler Acts of Prowess, than the others are capable of: And this they think they have made good upon all occasions, when the Honour and Safety either of the Royal Family, or yet the true Interest of the Kingdom it self, was exposed to Extremity and Hazard; upon which solemn Occasions they appear in Arms with a generous Contempt of Death, as they do of daily Pay when they Fight; and the glorious Character which the *Roman Poet* gave the *Britains* of old, may be applied to them here.

— Cert

— *Certa populi, quos despicit Arctos,
Fœlices errore suo, quos ille timorum,
Maximus haud urget Lethi metus ; inde ruendi
In ferrum mens prona viris : animaq; capaces
Mortis, & Ignavum peritura parcere vita.*

Lucan.

Nay by length of time, and by being accustomed to Arms, they are come to be so firmly revolved in this Perswasion, that upon such extraordinary Occasions (when they are well Headed by their Chiefs and Leaders) they'll perform things incredible. The instances they gave of their Valour, upon the late and former Revolutions, will (I presume to think) encline the Nation, at least the wiser part thereof, not to slight so considerable a part of its own Body ; but rather fall upon proper Measures to Cement and Unite them with their Low-Country Neighbours, in Religion, Manners and Fashions ; that by such a mutual Intercourse and Communication (tending so much to the advantage of both) of Arts and Sciences, both Parties might in a little time come to a liking of one anothers Tempers, Customs and Manners ; so as our Neighbours the *English* would not know them but to be one People.

A very learned Critick hath observed, from Jer. 25. 20. 24. *That the mixt or mingled People there mentioned, were Arabians that dwelt in the Desarts, who were not Civilized, nor scarce under any Government ; yet the Egyptians thought fit to mix with them, and not only joined their vast Hilly Countries with their Rich and Fertile Valleys, but mixed and confounded them both together;*

— *Certa*

together; so that they were permixti Dominatus; says Junius there. And certainly there was greater Disparity betwixt *Egypt* and those hilly Countries, than there is betwixt our Low-Countries and our High-lands, in every respect.

The difference of Tongues may be thought one of the chief Causes of Separation, and still keep up a seeming Division between the Inhabitants of the High and Low Countries: And therefore to prepare them for this desirable Union, it were to be wisht, that the present Parliament would confirm the former Acts, ordain Free-Schools to be set up in the most convenient and central Places throughout all the High-lands, and appoint Schoolmasters and Salaries accordingly for them. A Branch of the Bishops Revenues would be better employ'd this way, than perhaps upon such as may have as little regard to the Country, as to Episcopacy, or Presbytery, which may be little enough.

The valorous Inhabitants of the Grampian, might modestly expect this Eavour of the Government, in Remuneration of the many notable Services they and their Predecessors had perform'd, in defence of their Native Prince and Country. As this would be a good and laudable Work, and of singular Advantage to the Nation in general, so it would leave no Back-door open in case of a Rupture with our Neighbour Nation, which *France* and *Spain* still waits for.

Shall these Ancient and Heroick Scots (the *Highlanders*) however mean and contemptible they appear in the Eyes of a late Author, discoursing upon this Subject) be forgot, that

with

Part I. of Scotland and England.

161

with an Intrepidity beyond that of the *Romans* maintain'd their Antient Seats, and often sheltred their unkind Low-Country Neighbours, when they were Invaded and forced out of their Countries and Habitations by the *English, Danes,* and others; and by securing the Avenues and Passes to these Hills and unaccessible Mountains, they obliged the Conquerors suddenly to return home, and often in plain Battle discomfited them. They are the only People in this Kingdom that retain the old *Scot's* hardiness of Living; they value not how mean their Diet is, nor where to lie in the Night Season, if they get a Whinstone to be their Pillow; or what Woods, Mazes, and Ambushes to pass through, provided they be furnished with their Quivers and Sheaf of Arrows, or in our days with Fire Arms, in case of being attacked. No doubt it's of them that the Prince of *Scots* Poets meaneth, when he sets out the Virtues and Glories of the *Scots*, as one of the most considerable Branches of our Queens Dowry or Jointure, in his *Epithalamium* or *Beannighe Bard*, (as the *Highlanders* call it) made to *Francis* the first.

*Illa pharetratis est propria Gloria Scotis,
Cingere venatus saltus, superare Natando
Flumina, ferre famem, contemnere frigora & aestus
Nec fossa & muris patriam, sed Marte tueri,
Et spreta incolumem vita defendere famam
Polliciti servare fidem, Sanctumque vereri
Numen amicitiae, mores non munus amare.*

*Buchanan
Epithalamium ad
Francisc.
Vales.*

M

It's

It's ordinary we know for People that live in remote Hills and distinct Places, and are not daily exercised to Cultivating or Manuring the Ground, to have greater time and leisure to think and project a thousand Things, than those of the Low Countries, whose Noses, like Moles, are still in the Ground.

Thus if any that understands their Language and Idiom, should happen to converse with them in their Country, he might perceive a great deal of Caution and Subtleness in their Conversation, and elevation of Thought, much beyond any thing could be expected from Persons of no Education at all, but what are only led by the pure Dictates of Nature, and the common Reason of Mankind; whereas had they the happiness of a free and ingenious Breeding, they might be of singular use to the Publick, by serving it either in the Army, State, or Church. The *Mackenzies*, who were not fully Civilized till Queen *Mary* and King *James* the Sixth's Reign, yet in less than that little space of time, they have been able to furnish both the Bench and the Bar, the Church and the Army. And if they have done so (as it's certain they have) what might be expected of the other great and numerous *Clans* that are conterminous to them. In a word, The *Highlanders* of *Scotland* are the constant Nurseries of our Armies, and their Hills and Seas our Treasures.

What's here insinuated, of Uniting with the *Highlanders*, and the Chiefs and Over-Lords, is more properly applicable to such of the Nobility and Barons as yet may not be cordial enough for the intended Union with *England*: Nor does this Proposal however ridiculous

culous it may appear to Persons of the fore-
cited Author's Kidney) want the Authority
of our Laws and Acts of Parliament to sup-
port it; and therefore it was wisely Statuted

“ and Ordained Anent, the Divilion, Debates, Act 92.

“ and Discords, standis among our Sovereign Par. 13.

“ Lords Liedges, Barons, and others, whilk K. Ja. 3.

“ is dangerous to be unstanchèd, baith of
“ breakers of the Realm, and that they should
“ gang in Unity and Concord, to the resisting
“ of our Sovereign Lord's Enemies of Eng-

“ land, &c. And that this was not a transi-
ent Act made for a particular circumstance
of Time, but to be respected upon all extra-
ordinary Occasions (as this of an Union of
the two Nations must certainly be a main
one) is plain and evident by what's solemn-
ly Enacted by the succeeding Monarch, and
the three Estates, in confirmation of the for-
mer Act, touching universal Concord and A-
mity amang his Highness Liedges, as the Ru-
brick of the said Act bears, by which Friend-
ship and Concord is not only enjoined and
Commanded indifferently all the Lieges; but
likewise severe Penalties on all such as are ob-
stinate, and contraveen the same.

Act 8.

Par. 2.

K. Ja. 4.

Thus the more close and unite the inner
Wheels of the Government be, the more ea-
sily and regularly will the greater and outer
Wheels move. It will be shameful for us to
seek to Unite with the *English*, when as yet
we are not agreed and united among our
selves; for it is not easie to imagine, that a-
ny prudent State will think it worth their
while to join with them, who disagree among
themselves; when as if we all have firm and
solid Dispositions to Unity and Peace among

our selves, then with one united Force we come to meet our Neighbours, in order to Unite and Incorporate with them upon equal reasonable Terms. Thus the more unite and closer we join in Interest and Affection, the more formidable will we appear to the Enemy, and still verifie the maxim of the Title Page of this Essay, *Vis Unita Fortior*.

C H A P. V.

Of the Causes that hindred this desirable Project of an Union to take Effect, and what made the English to be of late years so careless of Uniting with the Scots.

HAVING in the former Chapters and Sections, as plainly as I could, laid down the true Notion and Nature of an Union from the common Establisht Principles of Law and Reason, and in particular with respect to these two Nations, and largely shewed the passionate Desire and Inclination there was in these Nations in former times, as well as at this day, to Unite; and having obviated so far as time would allow, the Inconveniencies proposed by either Nation against an Union, reduced under the Causes of External, as well as Internal Separation. We are now at length arrived to consider what should have hindred this desirable Project of an Union to go on.

We have to a common Maxim, *That a threefold Cord is not easily broken*; yet here we see a threefold Union formally laid down, and pro-

proposed by these two Nations, and never had any effect; the first whereof was, That King *Henry* the Seventh of *England* ushering in our King *James* the Sixth's legal and undoubted Succession to the Crown of *England*. The next was, that Union which ensued upon the Treaty set on foot by the same good and wise Prince, Anno 1604. The third was that Union and Coalition of the two Nations, so much desired by his Majesty King *Charles* the Second at the Treaties following thereupon, Anno 1670. wherein that wise and excellent Prince thought fit so to Unite these two Kingdoms as they should bear but one common Name, and be represented in one common Parliament, and enjoy each others Priviledges, without any Mark or Note of Distinction, that they both might be one Kingdom for ever hereafter. And now if her present Majesties excellent Design of Uniting these two Nations, in this critical Juncture, be again defeated, by the methods the former Treaties of Union were, we may give over hopes of ever seeing or feeling the benign Effects of a Proposal so good in it self, and so happy to these divided Nations.

That I may run up a little to the Source and Origine of these Lets and Impediments, the Reader will be pleased to reflect with me, That after King *James* the Sixth, of pious Memory, had laid down the Project of an Union, and made the Accomplishing it the main Business of his Life, and by long Experience studied not only the different Interests, but the different Genius and Temper of both Nations, with all imaginable exactness; yet did not think fit to push such an Union of both

Kingdoms farther than was truly agreeable to and consistent with the separate Beings of both, which then would seem to import an Essential Difference. Thus much may be collected from the Tenor of the Commission above-mentioned, past at that time in *Scotland*, Par. 17. K. Ja. 6. a special Clause whereof, both in the beginning and end of that Act, *That the foresaid Union should not prejudice nor derogate any ways to the Fundamental Laws, Ancient Privileges, Offices, Rights, and Dignities, and Liberties of this Kingdom.* By which words both Parties generally concluded a wrong Notion in former Commissions: *That there was an Union of both Kingdoms intended, but not such an Union as to mould them into one Body Politick; which as yet the Nations were not prepared for, and might breed rather greater Division and Discord, than a firm Union.*

Pursuant to this excellent Design of King James's, King Charles the Second, of happy
 Anno 1661 Memory, called a Parliament in *Scotland*, which was to sit in *October* that Year, and the very day to which the Parliament of *England* was Adjourned, and matters were so well laid down and concerted by that wise Prince, that this affair of the Union was at one and the same time proposed to both Parliaments; that by thus trying their Pulse, his Majesty might take his Measures by their Inclinations.

Indeed the *Scots* Parliament gave all the Demonstrations imaginable, of their frankness and willingness to comply with his Majesties Royal Commands, and returned Thanks for his great Care therein. But *England* it seems was not so forward, tho' they well knew they

they would be greater gainers by this Union than the *Scots*, and deferred giving any return to his Majesty, by employing their time in composing some Differences that were like (as was given out) to set on Fire both their Houses of Parliament. Yet his Majesty gave not over Thoughts of pursuing the foresaid Design, but would needs have a Parliament call'd *Anno 1670*, both in *Scotland* and *England*, whereby his Majesty was authorized to nominate Commissioners to Treat on the Union: And lest there should be any discrepancy either in the Stile of the Commissions, or yet in the Intention of the Parties, we find the *Scots* to prevent all Grounds of Cavil, did exactly Copy the *English* Commission. Yet notwithstanding of these Precautions on the *Scots* side, the happy Project of an Union, after his Majesties great Labour, and indefatigable Pains, dwindled into nothing. By what secret Springs that Excellent and Laudable Design was then diverted, is not now my Business to dive into, nor yet to examine the Truth of the Grounds and Causes that shou'd have occasioned this Disappointment, assigned by the fore-named late Author of the Discourse of the Union of *Scotland* and *England*, which the curious Reader may see. Only that the frequent disappointments this Nation has met with in this desirable Affair of an Union, will I hope make our present Commissioners now more cautious in treating with their Neighbours; and let the World once more see on what side the blame lies, that they be not any more amused with bear Schemes and imaginary Projects of any thing that may be was never designed to be made effectual.

Anno 1702

I know it was argued in general, That Innovations in the State, were of dangerous Consequence to the Members thereof, and ought to be shunned if possible, or to be made appear necessary, and that scarce any two Nations did Unite but out of Force and Fear; and to confirm this Doctrine, Instances from *Spain* and *Portugal*, and of the *English* Heptarchies were brought on the Stage. It was also urged, That this Union was unfutable and prejudicial to the Interest of the Crown, and that it's much more safe that there be two distinct Parliaments and two separate Kingdoms under the Allegiance of the Crown than one, who might thwart the Commands of the Court; whereas if the Nations and Parliaments stood separate the Court might have their Designs effected by the one, whilst the other might dissent and refuse to comply. And for proving of this, Instances are brought from the Proceedings in the Years, 1648 & 1649. In the third place it was argued, That by this Union, a Diminution of his Majesties Revenues and Customs wou'd ensue: Nay, and of the Prerogatives of the Crown too, which seemed to be more ample in *Scotland* than in *England*, where the liberty of the Subject is Asserted to better purpose and with greater freedom.

There were many other Topicks *ab Com-*
modo made use of by both parties, The Scots on the one hand feared that by a Coalition of the two Kingdoms, would put them to a disadvantage, being the weaker of the two. As in a Society, when one of a greater and one of a less Stock, come to Communicate both their Stocks, the poorest and weakest is still

in greatest hazard since his danger is equally as great as the others. And if any Advantage or Honour be to be acquired it will be still called to be done by the Richer and Stronger, as we see all that was done of late in *Flanders* and *Holland* by the *Scots* Regiments was solely attributed to the *English* and named on them by Strangers. This rule of Society led them to another Topick, which was to be jealous of the Independent Sovereignty that was still lodged in them, and by which they enjoyed their distinct Laws and Parliaments, wou'd be absorpted by uniting with a greater Power; and that it is the Interest of the *Scots* now to oppose an Union with the *English*, as it was the Interest of *England* to oppose an Union with *France*.

These and the like Arguments were insinuated with a great deal of Art and Cunning by those that were not for this Union, unto which they added several forcible Arguments from the Nature of Trade, as that *Scotland* is but a narrow hilly Country and so wants Consumption for Trade, and that it's much more fitted for fishing than *England*, and the *English* have no Commodity able to countervail and ballance this one of Fishing, &c. And therefore the *Scots* would be rather losers than gainers by a Communication of Trade. Which is the great Objection proposed by the *English*.

On the other Hand, the *English* asserted, That by this Union the *Scots* had many visible Advantages redounding to them: As when a poor Man is joined with a Rich, and when they communicate their Joint-Stock, the Product resulting from both is equally divided betwixt

betwixt them, which makes a greater inequality and disproportion in the gain. Besides, by such an Union, the *Scots* wou'd have Preferments in Church and State among them, and their Children in a little time would be Men of the highest Employments in the Nation; which would be a sensible Loss, and a great Discouragement to True-born *Englishmen*; nay it would secure *Scotland* from being Invaded by a Powerful Army from them, and *Scotland* might at length be Conquered by them, now when the Royal Family resides in *England*, who may be prevailed with, by frequent application to the *English*, to join Issue with them. These and such like Topicks were then invented, to keep the two Nations from entering into a firm Union of Trade (which is the great Scare-crow) they are unwilling the *Scots* shou'd share with them, least they might undersell them, and win themselves so into *London*, and the other Trading Cities of that Kingdom, as to be able to vie with their greatest Merchants, nay, and to outdo them in their Returns: And whereas it's alledged, that *Scotland* is a narrow Country, and not capable of great Consumption, they'll have then the greater Advantage by a Free Trade, when *England* is once open unto them, for a free Export of their Corns, Cattle, and the like; which in a little time cannot but enrich *Scotland*, by getting a larger Fund of Trade, and the like.

To all which may be added, the difference in Church Government, which makes no little Noise in both Kingdoms, even at this very day.

This

This muster of Arguments by either side, was no doubt managed according to the Power and Interest of either Party, to all possible Advantage; and it would appear that hitherto they have had their designed Effect, to the visible Loss and Prejudice of these Nations in all their Concerns, both Religious and Civil: But it's hoped, that with any Ingenious true-hearted Country-man, who only tenders the good of these Nations, such Artificial little Topicks will bear no weight; now especially that they are all, at least the greatest part considered, and I think sufficiently Obviated to the Judgment of the Impartial Reader, in the Chapters preceding.

And now what should have moved the *English* to have been more careless of Uniting with the *Scots*, since King *Charles* the Second's Restoration, and since the last Treaty, *Anno* 1670, comes here to be considered? The *English* are a People so Wise & Refined, so much upon Projecting, especially upon matters relating to the publick State of their Nation, that they think whatever is once propounded by 'em, is exactly agreeable to all the Rules of Policy, and the very Depths of Human Reason. The Luxurancy of their Wit and Fancy makes them often gad abroad, and pass Judgment on the Neighbouring States, and they are so much enamoured with what's either said or done by an *Englishman*, especially in what relates to the Policies of Nations, when compared with their own, that all agree as one Man thereto. And tho' by this fallaciousness of Wit in all sorts of Men, both among them and us, their Neighbours Houses, as well as their own, were set on Fire, and their Nation confest by every

every one, to be several times in danger of being Ruined and Overturned, by restless and dividing Spirits ; yet they could never agree on the Remedy : but as it often happens in Physical and Bodily Distempers, so I may say it fares in this of the Publick State, every Man sets up for a Physician, and will needs prescribe some *Recepe* or other for the Patient, to cause him groan under the load of his Infirmities and Disease.

Thus we have heard some years ago, not only their Lawyers and Parliament-men, but some of their Ministers of State, tush at *Scotland*, and overlook any Measures that were wisely by their Predecessors proposed for an Union. They thought by these refined Projects to hoodwink the poor *Scot*, and keep his Nose in the ground, and at last oblige them to take what Terms they were pleased to make offer of. Thus by slighting the good wholsom Cures they might have had at home, for healing the Disease of a crasie State, they would needs go to Foreign Countries for them, thinking by making a considerable Figure abroad, they might the more easily look down on their Neighbours at home, that live upon one Continent with them.

This it seems made a Project set on Foot some years ago (as of no small moment) of Strengthening and Fortifying themselves by Alliances abroad : And when once they come to be strongly Allied with Foreign States, it's told them, they need value their Neighbours the less. Indeed upon the late Revolution, this Topick wanted not Patrons to magnifie and applaude every part of it ; when

as

as a Project for an Union was then hissed out of *White-hall*, as a Popish Plot, and a contrivance of *Jacobites*, to bring back King *James* again. But pray, what's the use of having Alliances Abroad, and maintaining Ministers at Foreign Courts, if it be not to ward off the Blow designed by some Foreign Enemy? Which is but for a season, and can never cure the Distempers that break forth at Home, and just as if one who has an Ulcer in his Lungs, should think to cure it by applying a Plaister to his Breast; or as if one should happen to have an Imposthume in his Brain, he should put a steel Bonnet on his Head.

But as this Scheme seems to have no firm Basis to support it, so true *Englishmen*, I mean such as go upon a Natural Foot, did fancy that the Safety of their Nation might be very well provided for, by good and wholsom Laws and Constitutions, sutable to the *English* Genius, solemnly Confirmed and Approved by their Parliaments; which indeed is true: but pray, have their been many good and wholsom Laws made in *England* and *Scotland* since the days of Queen *Elizabeth*, and King *James* the Sixth, and to what purpose, when they nor we are disposed to obey them? And that I may not forget my Metaphor, I wou'd ask the Question of any sober Man in either Nation, when a Patient is sick to Death, does the Doctor think immediately to cure him, upon writing some *Recipes*, or long Bills with cramp Terms, for his use, which may be was never regarded by him? No more can a Nation expect any benefit by heaping and multiplying of Laws and Acts of Parliament, which serve rather to clog our Memories, than reform our Manenrs.

We have it to a Proverb in the *Latin*, That *Ex malis moribus oriuntur bonae leges*: But for what I can see the best of Laws, without being put in vigorous Execution, can scarce produce good Manners; and we commonly find those that have the best Laws, are least observant of them, so depraved are we now grown in this refined Age.

There came in another set of Politico's, that thought nothing could contribute to *England's* Security, against the Invasion of Enemies, Foreign and Domestick, so much as a Standing Army. Nay, had they once a well Disciplined Standing Army at their Hand, they might soon fall a Conquering their Neighbour State, without being at the fasthery and trouble of entering into Treaties of an Union with them; if it were no more but to keep their Soldiery in Exercise. But methinks late Experience hath abundantly let us see the Vanity of this Project, and that this Pill, be it never so well gilded, cannot be Digested by *British* Stomachs, what ever it may do in more Southern Countries. Shall we think that War is the surest way to keep Peace, among the Inhabitants of one Island or Continent! Shall I call that Person a Doctor or Physician, who, to cure the Patient of an Ague, would advise to throw him into a raging Feaver! Sure I can call him no other than a Quack, or some hair-brain'd Empyrick, that's fitter for *Pyrro's* School, than to serve the Commonwealth in the quality of a Physician.

The True-hearted *English* no sooner perceived these plausible Projects fail them, than they began plainly to conclude, that they were but meerly the Products of some refined Wits, made

made use of by those that lay at the Helm, for the better pursuing their own private Interests. And therefore they wou'd needs lodge the blame of all the Discords and Divisions in the Nation, that, like ill Weeds grow up in an Night, on the Male-Administration of evil Counsellors; who, if once they were brought to Tryal and condign Punishment, all would be right, and there would be no complaining in their Streets. But late, as well as former Reigns, have taught us the uneffectualness of this Remedy; for they have often shifted those they complain most of: Yet we find the complaint is still kept on foot by one or other Party; and these late years hath plainly taught that Nation, that those who most cry'd down the evil Counsellors and Ministers of State, as being of pernicious Consequence to the Publick, no sooner wrigled themselves into the Favour of their Prince, and got themselves thrust into the same Offices, by these silly Arts of Sycophantizing and Slander, but in a thrice were as liable to the loud Clamours and Bawlings of others, as their Predecessors. Mr. *H.M. D.J.* and his Cronies, have given the World a fresh Instance thereof. By these false Maxims and mistaken Notions, I presume to think, our learned and worthy Neighbours have been of late years decoy'd, from considering the true State and Interest of their Nation, as to the making a firm and lasting Peace among all its Inhabitants, who were still sensible, that nothing cou'd contribute more to make them and their Posterity Happy, and their State Flourishing, than by entering into a close and firm Union of Interest and Affection with their Neighbours

bours of *Scotland*; and thereby the Island of *Great Britain* might be truly considered as one Man: Which indeed wou'd look to be a more effectual Cure for a growing State, than all, or any of these imaginary Ones now mentioned.

But as the Generous and Learned *English* love still to be Projecting, it's like they have yet one Proposal in reserve, for hindering this desirable Project of an Union; and I shall not say but it touches them as much, if not more, than any was yet proposed by either side; and that is, if we be to be united in all our Civil Concerns, we must be so in our Religious Concerns too, since Religion is acknowledged to be the Cement that Unites and Glews the Hearts of Christians one to another: Without these Nations then be United in their Religious Concerns, there can be no cordial Union, while they profess themselves Christians. And the Band of Union will meerly depend upon the State, and upon Politick Considerations, which are in themselves as mutable and various, as Mankind in its successive Generations appears to the World to be. And thus I am brought unawares to the Second Part of my Work; to wit, *An Union in our Religious Concerns*: Which here is reserved apart for Method and Order sake, to the latter part of this Essay, because of the distinct Consideration it calls for from us.

THE
GRIEVANCES

O F

SCOTLAND,

In Relation to their TRADE
with *England*.

sent up to the Council *February the 3d,*
1668.

WE have received your Lordship's Paper
of the first of *February* Instant, signed
by your Lordships order, *John Walker*; in An-
swer to ours of the 25th of *January* last; to
which we return this Answer; That as we are
and shall be very far from formalizing in a Bu-
siness of such a Concernment, so when your
Lordships shall consider the Dates of our Pa-
pers, we hope you will find we have not been
the cause of any loss of time or delay. By
your Lordships first Paper you desired to have
the whole in prospect; and we did conceive
you had it by our first Paper, wherein we re-
presented, That contrary to the Priviledges
N declared

declared to belong by Law to his Majesty's Subjects of *Scotland*, born under the Allegiance of the King, and contrary to that Freedom of Trade enjoyed for so many years, some Acts have been made since *March 25.* in the Twelfth Year of his Majesties Reign. We express very particularly what related to the Act of Navigation, and where we said, That by other Acts of Parliament since that time, some Goods and Commodities of *Scotland*, are at some time charged with a Duty and Imposition equal to or above their value; we doubted not but your Lordships conceived we meant that Branch of an Act charging *Scots Cattel* brought into this Kingdom, after the 24th of *August.* And that by the Custom and Imposition charged upon some Goods of *Scotland*, about 16 times more than the Foreign Goods of the like nature, we meant the Act imposing 16 s. 8 d. on every Wey of Salt of *Scotland*, where the Shilling is only imposed upon Foreign Salt. We mentioned also unusual Custom exacted in *Northumberland* and *Cumberland*, which we conceive might have been very obvious to your Lordships. These are the most material Obstructions, and we little expected your Lordships could reasonably apprehend any heterogeneous Matters from us, being both our Commissioners are limited to the Freedom and Liberties of Trade betwixt the two Kingdoms, and to the Imposition obstructing the same; yet seeing your Lordships do still insist, that we should first declare more particularly what we have farther to propose, and give you a Scheme of the whole, in compliance with this, we do represent, That we expect your

Lord

Lordships will consent to the Restoring his Majesties Subjects of *Scotland*, to the same freedom of Trade here in *England*, and the Dominions thereunto belonging, which they enjoyed during the happy Reign of his Majesties Royal Grandfather, and Father of Blessed Memory; for that purpose, to the Repealing of all the Clauses of Acts of Parliament here in *England*, which obstruct or destroy that Freedom. We have fully exprest our selves, as to the fullest and greatest Obstruction to the Act of Navigation: And we now mention farther, the Act for encouraging of Trade, 15 Car. 2. c. 7. and by it the Imposition on Scots Cattel from August 24. to December 20. and what by that Act may be interpreted to concern the Subjects of *Scotland*, as to their Importation of fresh and salted, or dried Fish; which last Clause depends in part upon the Act of Navigation.

An Additional Duty laid upon Scots Linnen Cloth, by the Act of Tunnage and Poundage, in the Twelfth Year of his Majesties Reign, being one full Moiety more than is mentioned in the Book of Rates.

That part of the Act 14 Car. 2. c. 7. which forbids the carrying of Skins or Hides, tann'd or untann'd, into *Scotland*:

That part of the Act for preventing Frauds and Abuses in his Majesties Customs, 14 Car. 2. c. 11. which obliges all Goods and Wares that shall be brought out or carryed into the Kingdom of *Scotland*, to pass by or thro' the Towns

of *Berwick* or *Carlisle*; at least we shall desire an Explanation of the same.

The Imposition laid upon *Scots Salt* above 16 times more, than upon *Foreign Salt*, 14. *Car.* 2. c. 11.

The Imposition laid upon *Scots Beer*, viz. 10 s. per Barrel; as if *Scotsmen* were *Foreigners*, 18 *Car.* 2. c. 5.

And we further expect, that where *Foreigners*, or *Places* beyond the *Seas* are mentioned in any Act, it be declared, *That his Majesties Subjects of Scotland, nor his Kingdom of Scotland, are not meant, nor cannot be understood to be meant.*

As concerning unusual Customs imposed lately in *Northumberland* and *Cumberland*, we mean, that lately there hath been demanded for every *Stone-horse* carry'd into *Scotland* 3 l. 6 s. 8 d. for every *Gelding* 1 l. for every *Mare* 6 l. 6 s. 8 d. For every *Quarter* of *Wheat* carried by *Land* 5 s. 4 d. of *Rye* 4 s. of *Pease* 4 s. of *Big* and *Barly* 2 s. 8 d. and of *Oats* 1 s. 4 d. upon pretence of the Acts made in the 13. and 15 years of his Majesties Reign: And without any Colour of Law, new Imposts, as we are informed, are laid upon *Northumberland Coals* carried into *Scotland*, and unusual Customs upon ordinary *Market Commodities*, brought every *Market day* into *Berwick*.

Thus your Lordships have now the full Scheme of all that is to be demanded by us in this Treaty; but because what we have given in

in relation to the Act of Navigation, was the first in time, and is the greatest Obstruction of our Trade, and indeed without which our Trade cannot be carried on here, we still insist upon an Answer to it in the first place, and then we shall willingly proceed to treat on all the rest in order : And I hope it shall appear we do and shall desire nothing, but the just and reasonable Removal of the Obstructions of that Freedom of Trade so long enjoyed, and the continuing and strengthening the happy Agreement of both the Kingdoms ; which is our greatest desire, and shall be pursued by us most heartily and diligently.

The End of the First Part.

In Law that For the Relation then Religion people a

A
PERSWASIVE
TO THE
UNION

Now on foot, &c.

CHAP. I.

*Of Church Union in general and in the Sense
of the Scriptures, and in particular, in re-
lation to the British Churches.*

LOVE and a Universal Charity to
Mankind, I take to be the great
and indispensable Duty of Christians,
being it is the Completion of the
Law, and the Foundation of the Gospel; and
that which makes Man resemble God himself:
For God is love, saith the Scriptures. Love is
the Foundation of Unity, and Unity the Foun-
dation of the Churches Peace. The Uniting
then differing and disagreeing Interests in Re-
ligion is indeed of all Designs the most desira-
ble and most becoming a Member of the Civil
State,

State, in his Christian vocation and calling; nay it's a work, methinks, worthy the pains and deliberation of the present Parliament, and the Sanction of Synods and Assemblies either National or Provincial, the better to pave the way for our Commissioners more easie proceeding in the Treaty of Union with the *English* next September. In this Sense it may well be said, that *God stands in the Congregation of Princes, he is judge among the Gods.*

It cannot but be matter of grief and no small wonder to any serious considering Christian, to find, that the pure Religion of Jesus Christ delivered and taught by our Lord himself and his Followers, with so much simplicity and plainness of stile, shou'd be thought the rise and occasion of all the different Sects of Christians we now see in the World: And that the Gospel which is all Love and Unity, and designed to be the bond to cement the hearts of all Christians, shou'd ever be thought, the Mother and Source of all the sad Divisions we see crept into the Church of God. For my own part I cannot but ascribe this daring foolishness of such Christians to their not duly considering the Gospel as one entire System of Faith, and Manners, but they only consider it by halves, which, and being so alone, perceived by them, must needs beget misapprehensions and gross mistakes in their minds to the eating out the very Vitals and Life of true Christianity from among them, and to the tearing and renting our Saviour's seamless Coat, (to use *Cyprian's* phrase) that which is Crucifiers were afraid to do, Schismatics will not stand in awe to do, for which cause the Sin of Schism is so severely branded in the word of

God,

Part II. of Scotland and England.

3

God, That even they who place their Religion in division and separation do acknowledge the guilt of it, and will forsooth lay the blame of their groundless dissent in those, from whom they differ, confidently alledging, That either they are persons of scandalous or immoral Lives, or not found in the Faith, and and so conclude by Logicks peculiar to themselves, that therefore their Separation is justifiable and innocent, because they fancied it was necessary. Hence it is, that notwithstanding the strict obligation upon all Christians to an entire agreement, it is not likely, nay, I may say, not possible to be had, this side of time, for every Party and Sect are ready to cast the blame on each other; so as none is so humble nor yet so ingenious, as to acknowledge his own Error: And when a Party is worsted and brought near the doors of the Church, yet they'll never want subterfuges and evasions to drive them back again, by telling the World, that Peace and Unity can never be had, but with the loss of Truth; which furnishes Proud, dogmatick and self-opinionated Men with a number of specious gilded Arguments under the colour of Truth, and what they come short in strength of Argument they are sure to make it up with wilfulness and perverseness of Spirit, which they'll have to go under the name of Zeal for the Truth; and so hallow their ungovernable imaginations with the name of Doctrines of Christ, never considering that this their zeal is by the Apostle Paul reckoned among one of the works of the Flesh, which we translate emulation, and if it be wondred how Zeal comes to be ranked up in such bad Company, the same Apostle tells us, Gal. 5. 26.

That by zeal he persecuted the Church of God, and to confirm this, St. James in his Epistle complains of such a Zeal that's leavened with an affected singularity and pride, so the Text calls it *πικρος ζήλος*, which is as a fever in the Soul envenomed with malice, and sacrificing every thing to ones ungovernable Lusts and Passions; yet we are told that it's good to be zealously affected in a good matter: For true Zeal is a sweet heavenly and gentle flame which makes us active for God and his Interest, but always within the sphere of Charity, and Love; it never calls for Fire from Heaven to consume those that differ in little minute things from us, it's that *ignis lambens* that will scarce scorch ones hands, and like that kind of Lightning (which the Philosophers speak of) that softens and melts the Sword within, but findgeth not the Scabbard, that saves the Soul, but does not hurt or destroy the Body: Did Men thus temper their Zeal with sound Reason, and square their practice to the Tenour of the Gospel they wou'd make but little noise in the World. If our Zeal be heavenly it will not delight to tarry here below; for what's here but straw and stubble, and such like combustible Matter, which can send up nothing but smoak and gross fumes to Heaven; But it will rise up and return back, pure and divine, as it came down. And did Men walk worthy of the vocation whereinto they are called with all lowliness and meekness. with long *Suffering forbearing one another in Love, endeavouring to keep the Unity of the Spirit in the bond of Peace,* as St. Paul doth enjoyn *Ephes. 4.* Methinks the Seeds of discord among Christians wou'd easily be removed, if we were more resolutely fighting

Part II. of Scotland and England.

5

fighting against our Lusts and pulling down the strong Holds of Sin, those spiritual wickednesses seated in the high places of our Understanding, and Will, we would not be so much taken up with the empty shews and pompous appearances of Church Government, but quietly and humbly submit to whatever is orderly and decently done therein.

Did Men frankly lay aside all prejudice and prepossession which glews and attacks them so closely to their respective Sects and Parties, and from their Hearts unfeignedly desire a reconciliation. And did we of the Isle of *Britain* thoroughly consider, that those Kingdoms as they stand at present cannot subsist, being that each Kingdom is not only divided against one another by different Faces of Churches; but also that each Kingdom is sadly divided within it self upon the same score. And therefore according to our Saviour's Prediction and infallible Rule, we must crumble into ruine and be brought to desolation, which nothing but a healing Spirit and a harmonious Union of the Churches of both Nations can avert. Were we so happy and so wise to our selves as to be thus peaceably disposed and to receive one another in the sweet embraces of Love and Charity, how would these differences, that now appear like Mountains in a little time shrink into Molehills? How wou'd the motives of presumptuous defiance and discord, with which we have hitherto raised our Choler, and whet our Minds against each other, and put in the ballance with the more solemn obligations that are upon us to Love and Charity, prove lighter than vanity it self? If then we keep the Fire of Zeal within the Chimney, and

not let it go out of its proper place, it will not annoy or hurt any Person either in Soul, Body or Estate.

The Members of the Organical Church are enjoined by the same Apostle in the forecited Chapter, to be all *one with one another*; for as it is one holy Spirit that directs the Church Catholick, so the Members of that Church that makes up the Body thereof, being led by this one Spirit ought to be United into one Body also, so he reasons, ver. 4. *There is one Body and one Spirit, even as ye are called in one hope of your calling.* It is then the duty of every Christian to communicate with his Neighbour Christian in all holy Duties; and it is likewise the Duty of every one to admit others to the like Communion for the edifying of the Body of Christ, since we are all Members of that one Body; for as the Body is one, and hath many Members, and all the Members of that one Body, being many, are one Body, so also is Christ, *i. e.* the Christian Church of which Christ is the Head. See *Col. 1. 18.*

And tho' humane Laws may grant some exemption and impunity to Separation for a time; yet they can never make it lawful, and and it will still be a Sin tho' it has the countenance of Innocence, as being supported by the shadow of a Law; and the terms upon which they shou'd admit them, ought to be as plain and simple as possible, and with as little pretence, as can be of any hazard or danger to the known revealed Will of God in his word; for no obligation can tie me to communicate with another in that which he forbids. And there ought to be all possible care taken, that these Holy Duties and Offices, wherein

Part II. of Scotland and England.

7

we desire to communicate with one another, be as near alike in all Places, as may well be, or that the Infirmities of Men will allow. But still it ought to be remembred that every difference in Judgment when no violence is offered by any of these Members to the Foundation of Catholick Faith and Unity, I say every Difference must not break this Communion according to the Profession of *Cyprian*, judging no Man nor excluding him from the right of Communion, if he think otherwise; which opinion of *Cyprian's*, I find is much urged by *St. Augustine* against the *Donatists*.

We see that notwithstanding of the several Divisions and many Alterations among the several Orders of the Church of *Rome*, yet there are seasons wherein all these Differences are husht on purpose to maintain the so much boasted of Unity alledged to be in that Church above all other Churches in the World, and yet we are so unwise, that are Protestants, to keep still on foot our sad Divisions, for things of less moment than points of Doctrine which are controverted among them, but herein the Scripture is verified, that tells us, *That the Children of this World are wiser in their Generation than the Children of Light*. And must it not be matter of admiration, as of grief, to think that the Spirit of God which like himself is one, and which all Protestants believe does govern the whole Church of Christ, should not keep the Protestant Churches in such an intire Bond of Union, as the Political Spirit in the *Romish Church* does keep the Members thereof, but the mischief is, the generality of Protestants are not sincere in their Profession, nor are they at pains first to be reconciled

O 4

ciled to God, e'er they seek to be reconciled to one another.

S E C T. I.

The Wisdom of the Church of England to Counter-balance the Romish Church, and the Latitude she gives to her Dissenting Brethren, and their Plea for such a Latitude.

AND for these circumstantial Differences in point of Church-Discipline, wherein we seem to disagree (for it is already acknowledged upon all hands that we do not differ in Fundamentals) I hope needs not break the sacred Bond of Unity in the *British Churches*, when once they are at pains to come to a right understanding of each other. These lesser Differences ought rather to be considered, as the different Strings of a well-tuned Harp, the different sounds whereof, are so far from making a discord, that they rather make a sweet Harmony to the ravishing of the Minds and Ears of the Hearers, and tho' they should appear many discrepancies and harsh unpleasant Sounds in several parts thereof; yet all united together must needs make up one pleasant Consort. * And its in these little discrepancies, and varieties of Sounds, that the Beauty and Harmony thereof, doth oftentimes consist, if the Divine Philosopher *Pythagoras* thought fit to resemble Heaven to a great Harp having * different Notes and Sounds; Yet all these Uniting in a beautiful Harmony, I hope

*Euripides
saith all
pleasure is
in variety.

* Different
strings ac-
centing.

Part II. of Scotland and England.

9

I may be allowed now to resemble the Church likewise thereto; That the Church Militant upon Earth might have some Resemblance with the Church Triumphant in Heaven, where there are many Mansions, in which many of different Judgments do enter; into this new *Jerusalem*, every sincere Christian comes, this is the City that hath the many Ports, at which the Godly of all sorts doth enter, and that by different ways and Avenues leading them thereto, that when they come there, they may the more admire the glory of the great and glorious King thereof, as St. *Augustine* most Rhetorically describes it, to let us see that as both are represented by one Figure or Semblance, so both are but one City of God. Yet the Church of *Rome* hath not absorbed all the Cunning and Wisdom that's necessary for conserving Union among its different Members; but that our Neighbour Church of *England* hath reserved a little of it to her self, not only in the point of Ceremonies, but also in some points of Doctrine.

Heb. 12.
22, 23.

Lib. de Civ.
vit. dis.

The wise Church of *England* hath thought good to indulge some of her scrupulous Members, that boggle at some Rites and Ceremonies which they think have too great an affinity with Popish Superstition, and has ordered that it shall be free for any to bow or not bow toward the Altar as they think fit; as also of bowing and looking to the East upon saying the Creed. Albeit it be a very ancient Rite observed in the Church; I did likewise see some of the Clergy before Sermon make use of a Prayer of their own Composition, others especially at the University only bidding Prayer (as they call it) and such like Rites indifferently observed by them.

1 Of Rites:

And

2. Of Do-
ctrines.

And as to Points of Doctrine it's well known that the exemplary moderation of the Church of *England*, in the Articles of Predestination, Divine Grace, Free-will, &c. How notwithstanding the great Heats they first caused in the Church, yet they were soon laid asleep, and composed. Now had the more prevalent Party of the Church of *England* dogmatically decided those Controversies to the one side, or other, wou'd not the side against whom the the decision had passed, been ready with an open mouth to cry out of Oppression, and every thing that's bad, and thus create a terrible Rupture in the Church, which might for ever endanger her Peace and Quiet: But the Sons of the Church of *England* were wiser in discreetly bearing with one anothers Infirmities, as they were direct by the Canons of the Church made for that end some years ago.

If these and such like varieties be tolerated in the *English* Church, it's hoped the Reasons that obliged that Church to grant that Latitude and Indulgence to its squeamish Members, will be lookt on still as the same; that while the Disease lasts, the same effectual Cure be applied. It's the sick and weak, and not the strong, that the Church must look after, to

save and heal; *Which of you having 100 Sheep, and if one fall into Ditch, * will he not leave the 99, and rescue the Sheep that's in the Ditch or missing. And if there be so much joy in Heaven over one repentant Sinner, how much joy ought there be in Christ's Church upon Earth, to bring one straying Sheep back to the Fold?* Man is a very ticklish Creature to govern, and will not be always led by Reason; he often hath an awkwardness and obliquity in his Will, that will not

Luke 15.
Grot. hic.
* The words
reads best
with the
Interrogati-
on, says
Caulabon.

Part II. of Scotland and England.

11

not let him listen even to the purest Reason; nay the very godly themselves are not free of this; few knows that Heavenly Doctrine of Self-denial; it may break the heart-strings of many, to wind them up so high as to bring them to observe all the Modes and Ceremonies of that Church, which (perhaps hitherto) they have never seen; and thus crack all their Religion in pieces. *Let no man therefore judge you in meat, or in drink, or in observation of an holy day, &c.* faith St. Paul, Coloss. 2. It may not be altogether unreasonable to think, that in sober minds many serious Throwings and Doubtings do often arise, about some Ceremonies that are ordinarily enjoyned as Terms of Communion, and some may think they draw near to the significancy of Sacraments; upon which consideration these Ceremonies may not appear to them as Circumstances, but rather as Parts of Divine Worship, and it strikes a mighty Terrour in their Conscience, to think of complying with any Instituted Worship that's not plainly contained in the Scriptures; out of the feeling Sense they have of a jealous God, who will not be Worshipped but in the way he hath prescribed precisely in his Word; so they account that unlawful which others may call indifferent: And were I to tender my opinion in such a a nice Point, I should think that since these Ceremonies at most are in the judgment of the Imposers but matters in themselves indifferent, the observance of 'em cannot in reason be esteemed of such Importance to the Substance of Religion, as the different Opinions about the Doctrine of Grace, &c. above-mentioned are. And will not the wise Church of England, ere they shou'd lose such a considerable part as the Dissenters in
The Dissenters Reason.
England

England, and those that now make up the regnant Kirk of *Scotland*, part with some Rites that put a Bar on the Doors, and widen the Terms of Christian Communion so far as they may the more readily enter in. Who wou'd lose such a considerable Body of Protestants, for want of adding an Inch to the Elb (as our *Scots* Proverb hath it) especially when the Fundamentals of Religion are kept entire?

Object. 1. I know it was with good Reason objected by Dr. *Sanderfon*, and others since, That the Question is not so much about the scrupulousness of Conscience, as the Subjects Obedience, which they still affirm, the Nonconformists deny to the lawful Magistrate. This I must confess is a heavy Charge, nor do I find myself now obliged to answer it; only I beg leave to make one Proposal in their behalf; which is, That her Majesty would be graciously Pleased to order that the Church of *England* would quit with those Rites and Ceremonies that keep the Dissenters from coming in, as a tryal of their Obedience; if they will submit to the taking away these, for which they have for many years so zealously contended; and I may make no doubt but they will, being they account these Rites but as things indifferent; and then as there is greater reason to gratifie them, so it will make the charge still the heavier against the Dissenters, if they do not comply after all.

Object. 2. But they say farther, That it's of ill Consequence to the Peace of the Church, to be thus yielding to the Dissenters; for if they should once yield in some Points, why not in others; for they'l be still seeking after more Concessions of that Nature, till they strip the Church

Church naked, even of the Surplice it self. But I suppose a prudent weighing and limiting any Concessions, to be made by a Convocation of the Clergy, will easily obviate this difficulty: And if the Dissenters (called Presbyterians here with us) continue still Refractory upon such Heads, will not the Orthodox Church of *England*, by exercising its wonted Moderation, by peacemeal overcome that humour of the Dissenters, so as absolutely to gain them at last. Since I hope there is no reason yet to despair of their coming in, but in the judgement of Charity to believe better things of them. Charity hopeth all things, believeth all things, thinketh that which is best: And the Apostle *St. Paul's* Advice, ought here to be taken, not to Judge one another any more, *but judge this rather, that no man put a stumbling block * in his Brothers way*, Rom. 14. * *περὶ* v. 13. which Chapter I wou'd intreat to be *κρυμμενὴ* well read and considered by all. *Is not the σκιά* shadow more than rayment? as our Saviour says. *ἀό.* Vid. Shall we lose the Substance for the Shadow! *Bez. & Param. hic.* In my own private Judgment, I think our gracious God will accept the Devotions and sincere Endeavours of every honest Christian, in either of the Churches, providing he lie not wilfully under the mistake of a Fundamental Error in the Faith; *he will not break a bruised Reed, nor quench a smoking Flax, and in every Nation he that doth Righteousness is accepted of him.*

And now to speak more distinctly to the Case in hand; I shou'd think that these Debates about Rites and Ceremonies that have been fostered in the Protestant Church since the Reformation, are now of so long a stand-
ing,

ing, that if they be not already laid asleep, they may at least be handled with greater Moderation and Discretion on either side; for they may be now weary of Scolding, since experience may sufficiently teach them how little it has advantaged their Cause, and how much hurt the Advocates of the different Parties, by giving so much way to their incorrigible Humours and Passions, hath done to the Cause they maintain, that they seem rather to fight for Victory, than for Truth.

It's very unseemly methinks, to handle Questions wherein Men's Consciences are made to be concerned, with a Spirit of Rancour and Spite; these Fiends should immediately vanish, and not dare to mix themselves when we are upon an Enquiry after Truth: And if the Subject be of Spiritual Concern, it ought to allay and compose our Spirits, and defecate our Passions from the Lees of Dispute, least they be thought to be acted by a certain sort of Resentment, than Christian Zeal; and Persons, be they never so forward and zealous for the Cause they maintain, ought well to reflect they have to do with Persons of the same make and fashion, and have the same Stamp and Signature of the Image of God, that themselves have; and therefore one Party should treat the other with all Civility and good Manners, and in their publick Disputes do nothing that's choaking to Humanity.

And now that Providence hath enclined both Nations at this time unto an happy Union, and Coalition of all Interests both Religious and Civil: It's certainly their Wisdom to Sacrifice their Humours intirely;

fo

Part II. of Scotland and England.

15

so as different Churches, as well as different States, may cordially meet, and mutually Embrace one another; *Neque enim quia & in orbe Terrarum plerumque Regna dividuntur; ideo Christiana Unitas Dividitur, cum in utraque parte* * *Augustin* *Catholica inveniatur Ecclesia*, says a Pious * Father. *de Unitate Eccles. cap. 12. Tom. 7.* Persons then shou'd be rather Emulous who shall exceed in this laudable Work, than by a wrangling Humour be a hinderance to it. Shall the value and esteem that they have either for or against them Rites, be so enhaunced by them, as to preponderate with the Church's Unity, and the exercise of mutual Charity among its Members? No sure; they must part freely with their beloved Opinions, *Ob majus bonum Ecclesia*. If we must cut off a right Arm, or pull out a right Eye, in order to enter into the Kingdom of Heaven, shall we part with nothing to enter to Christ's Church, which in the Gospel is often compared to the Kingdom of Heaven? Let it not be said, nay nor so much as heard of any more among Christians.

Thus when the Fuel of Discord and Dissention are once removed, those Flames that now appear so luminous in the Church, will soon be extinguished; and these Tenets to which the Professors thereof have hitherto stuck so fast, will disappear as the morning Dew, and vanish into nothing. And since it is the common Fate of these called *Trimmers*, when they happen to give the genuine Sentiment of their Mind, to be lasht by both Parties, for Reconciling them; as ordinarily he that rids a Plea, gets the ridding Stroak, I must here resolve with it, and tell them both the Mean I observed, which was to be

be Presbyterian with the *Tantive Tories*, and High Churchman, and Episcopal with the wild and bigotted Presbyterian, that so I might blunt the edge of both, and bring them to a more sedate Temper, so far as I could; for as I love not Papacy in the Hierarchy, so I love it as little in a multitude: and I truly design nothing thereby, but to bring Persons of one Faith and Doctrine, to one way of erecting it in the external Government and Discipline of the Church; that I might shun the giving scandal or occasion of offence to any of Christ's Members, and of coming under the Woe pronounced against them by whom offences come: *Mark them* (saith the Apostle) *which cause Divisions and Offences*, &c. What is it to an humble peaceable Christian, whether the Church be Governed by one or by twenty? Since they are all Stewards of the Mysteries of Christ, Ministers sent out for bringing in the Heirs of Salvation. Or whether the Preacher makes use of a black or a white Gown, or a gray Cloak? For as the Habit makes not the Monk; so neither does his wearing it make him a good or bad one.

But it's altogether needless to seek after a perfect total Reconciliation of all Differences, while Men are clothed with Passions and Infirmities, that so readily prompt them to differ from one another: And they that propose to themselves the uniting of all Christians, or of all Protestants, or those who have even but the slightest and minutest Differences among themselves, will be more happy in the Piety of their Design, than in the success and issue of it. Nor do I think needs the Churches Peace and Unity in the general be much troubled,

bled, tho' some little differences be still kept on foot. It may be the allowing such private differences in Opinion, that may arise out of a due regard to the just Bounds and Latitude they ought to be confined, will be the true way to lessen them differences, and consequently bring the Persons that have been hindered by these differences the sooner into the Church. If Christians still lived in perfect Unity, and and slept away their time in Peace, they come at last to fall into a Lethargy and degenerate, whilst some little differences that now and then arises, keep their Virtues on edge, and exercise their Graces. It was not therefore for nought our Saviour said, *That there must be Heresies in the Church, and that it's necessary offences sh^{ld} come; that they who are approved may be made manifest.* And in these last times such cunning Seducers will come out, that if it were possible, they would seduce the very Elect. *Acts 20.30*

S E C T. II.

The right understanding of the Premisses, and the Power of the Civil Magistrate set down; with a seasonable Digression concerning some new Doctrines lately vented in England, &c.

BY what is said in the former Section, I wou'd not be understood so as to have Heretical Opinions broached and vented without controul, that might be of pernicious Consequence to the State, as well as to the Church, and for that end *every Soul must be subject to the higher Powers*, being they privately and originally flow from God himself: and if every Soul be subject to the higher Powers, then none are exempted, Laick or Ecclesiastick; *Si Chrysostom. omnis anima, & vestra: quis vos excipit ab uni-*
in Loc. versitate? Si quis tentat excipere tentat decipere,
Rom. 13. faith Bernard. The Reason subjoined by the Apostle here, infers a necessity of our being subject in whatever capacity we may be considered to the Civil Magistrate, who beareth not the Sword in vain; for (saith he) *he is the Minister of God, a revenger, to execute wrath upon any that doth evil.* Mark, it's on him that doth Evil, not him that thinketh or believeth Evil; if his Heretical or Blasphemous Thoughts break not forth to a publick Signification of his Mind, to poyson others in the State or Church, the Magistrate is not properly concerned with him; for God Almighty has reserved

I. Part II. of Scotland and England.

19

served the Punishment of the inward Thoughts to himself; to which the Civil Law doth well agree, *Cogitationis pœnam nemo patitur.*

Nor yet be understood to have Schisms and Divisions fostered in the Church (which is the Society of the Faithful, founded upon a Divine Charter, and impowered to cognosce on all the visible Members thereof) when they prove Refractory, and will not stand to the Authority of the Church, in matters properly subject to it: And tho' the Church be the proper Judge in the first Instance, to declare what is Heresie, or what Schism is, yet the Civil Magistrate must make use of the Sword, but with all gentleness, to make them dutiful Sons to the Orthodox Church, whose Rites and Doctrines have been already agreed upon and acquiesced indefinitely by all her Members. Why is there so much mention made in the Codes in the Novels, and in the Authentick Constitutions and Annals both of *Roman* and Christian Emperors, if the Power over their Subjects in matters Ecclesiastick, had not been conferred upon them.

It is not bare difference of Judgment and Opinion, that exposes Men to the Censures of that Power which Rules and Governs a Religious Society, but the eager desire and restless endeavour, by this difference of Opinion they have, of alienating Mens Minds from one another; which still occasions a Breach in that Society, is that which obliges the Magistrates to Cognosce and Animadvert upon them: For what is a Sedition in the State, but a Lay-Schism (as one ingenious Author hath observed;) and pray, what is Schism, but an Ecclesiastick Sedition? And therefore both ought

to come under the Magistrate's Rod for correction. This made the Christian Emperors take to themselves the cognition both of Heresie and Schism in the Church, as being of dangerous consequence to the Peace and Tranquility of the State; and these two seldom mis to go together wherever they are hatcht; and when they come once to be together, are like the blind and lame Man in the Fable, the one lent the other Eyes, and the other lent him Feet; one to find out what they desired, the other to get away with it when they had it: The Heretick he useth his Eyes to spie out some cause or pretence of deserting Communion; the Schismatick he helps him with his Legs to run away from it; but between them both the Church (as her Saviour Christ between the two Thieves) is destroyed, by robbing her of her Peace and Unity.

Grot. de
Imper.
tum pot.
Graswinc-
kel de Jur.
Mejest. c. 5.
De Unit.
Eccles.
Tom. 3.
p. 149.

Heretici de Deo falsa sentiendo ipsam fidem violent, Schismatici autem discissionibus iniquis a fraterna Caritate desiliunt, quapropter nec hereticus pertinet ad Ecclesiam. Catholicam, quæ diligit Deum; nec Schismaticus quoniam diligit proximum. Here's indeed a sad Character given of a Schismatick by S. *Augustin*, much like that given by the Apostle St. *John*; *How can he love God whom he hath not seen, when he loveth not his Neighbour whom he sees daily.* Hence it is that Schismaticks are commonly Character'd to be Persons of untoward, surly Humours, heady, high Minded, of a proud supercilious Look, having a form of Godliness: Yet the same Apostle Pourtraicts them very lively, when after he had thus described them, tells us, notwithstanding of this their their haughty Humour, they can upon occasion transform themselves in

Part II. of Scotland and England.

21

in a trice into a more humble Shape and Figure, they'l forsooth creep into your Houses, and lead captive silly Women laden with sins, and led away with divers lusts and Passions. And tho' in his own wicked Conceit the Schismatick fancies to take away Unity from the Church, yet in truth he but cutteth himself off, and depriveth himself only of the Church's Unity. So Cyprian Argues in that excellent Treatise of his, *De simplicitate Prælatorum*, or *De Unit. Eccles.* near the end. Just as if one should hate God, and should fancy he taketh away goodness from him. Shall we say by Judas's Fall, the Faith of the whole College of the Apostles was shaken. A fatal Mistake indeed! and of dismal Consequence to those that fall into it, and seriously to be laid to heart by this dividing Generation.

This gentle Coersion of the Civil Magistrate, as it's necessary for the Conversation of Peace and Unity, and preventing of Schism and Division in the Church, so it ought to go no farther; for in Reason no Man should be forc'd to believe against his Judgment; so no Man can punish an evil Believer, strictly considered as such: It not being in a Man's Power to believe but what his Reason Suggests, much less Divine or Supernatural Truths. And it's not when a Person would fain believe a thing to be true, that it is so, for it is not in the power of Man to make a thing appear true to the Judgment or Intellect, when he would have it; says the excellent *Picus Mandula*. For that's the peculiar Work of Grace. And if Faith be the gift of God (as the Apostle says it is) then Man cannot naturally be brought to believe what may be thus

Cætera facere potest Homo nō lens, credere autem non nisi volens Augustin. in Johā. Tract. 16.

imposed upon him, since his Belief is but a meer gift, and that he hath nothing but what he hath received : And therefore to use external Force on him for not believing, is just as if you should pretend to awaken a Man's Conscience by beat of Drum : And so we see that it's not only against the very Nature of the thing it self, but also against the tenour of the Scriptures, which bid to speak the Truth in love, and in the Spirit of meekness, and to pray for all such ; which is far from violence and force.

Bernard.
Serm. 47.
super Can-
tic.

And if the Civil Magistrate happen so far to transgress the Laws of Christianity, as to force Persons to believe against their wills, and thus Persecute them contrary to the Laws of Christ, they are in that case patiently to submit, and lose all e're they forfeit a good Conscience ; for their reward is in Heaven : *Utrumq; es mihi Domine Jesu* (says that pious and devout Monk) *& speculum patiendi, & praeiudicium patienti.* Which if one firmly comes to believe, he can have no freedom upon the pretext of Self-defence, or any such specious pretext, to take up Arms upon the account of Religion : For either he believes there is no such Reward, or he is made to reject the opportunity of gaining it, and so will justly be thought either a stark Fool, or a mad Atheist ; which is truly to leave him in a sad Dilemma.

Digression

I cannot here but declare the Aversion many Pious and Orthodox Christians have, to that new coined Doctrine of making our Religion a part of our Properties, and twisting it with our Civil Interests, thereby to furnish a specious pretext of maintaining it by humane Means

Means, and to fight for it as we wou'd do for some other Civil Concern. And I am in particular sorry, that my worthy Friend, who is of late advanced to the Mitre, should be among the first Broachers of this Anti-Evangelical Doctrine. If there were any warrant either in the Scriptures, Decrees of General Councils, the Doctrine of the Antient Fathers, or from the received Practice of the Primitive Church, something might be said in vindication thereof; but when the contrary is plain to any that reads the Scriptures, or the Writings of the Antients, I am to seek for an Apology, but that *humanum est errare*.

Sure I am our Lord Jesus has plainly told us, *that his Kingdom is not of this World; for if it were* (says he) *I could command Legions of Men and Angels to fight for me: If my Kingdom were of this World, then would my Servants fight.* But *John 18.* as it behoved him to suffer, that the Scriptures ^{36.} might be fulfilled, so must his Disciples and Followers imitate him in the exercise of this heroick Virtue of patient Suffering, when there is occasion for it: They must deny themselves, *take up their Cross and follow him.* They have a tedious and bloody War to endure, yet the Arms of their warfare are Spiritual, and not Carnal: And they must resolve to follow the Captain of their Salvation through Sufferings, and to encounter all sorts of Enemies, by being armed with the whole Armour of God *. This is what the Apostle elsewhere calls *resisting unto Blood, by contending for the Faith once delivered to the Saints.* The reason of all this severe Discipline in the Primitive Days of the Church, was for to train up the better for

Martyrdom, that glorious Diadem of the Saints in all Ages and Periods of the Christian Church. Which this new Doctrine would for ever Banish and put away from among Christians. For if we be to stand in the Defence of our Religion as a part of our Civil Rights and Liberties, there will never be use for Martyrdom, nor the exercise of these eminent Graces recommended in the Gospel. Did the Primitive Christians wrong in submitting to Heathen Governors, and patiently laying down their Lives when called by them to it? No sure. And shall an Act of Parliament alter the State of Christianity now, from what it was in them Days? Are not the Truths of God like himself, Immutable? And therefore not subject to alteration or change in any period of the Church. The pure and heavenly Religion of Jesus Christ, was delivered by him with such Simplicity, and yet with such relucient Splendor and Majesty, that its essential Purity could admit of no humane Mixture, nor its Spirituality any allay of our worldly and carnal Interests, nor yet its simplicity of the cunning Sophistry of Men, who lie in wait to deceive. Our Lord himself tells us, *that there is no Communication betwixt Light and Darkness, no fellowship betwixt Christ and Belial*: There is an eternal Contrariety in their Natures, and a repugnancy between them.

1 Cor. 10.
20. 21.

Besides that, this Doctrine favours too much of our excessive Love to the World and Civil Interests, that will part with nothing here for the Truth, but rather fight for it, and vindicate it with our Civil Rights and Liberties, *viis & modis*. Such a Doctrine then methinks suits better with a *Turkish Musti*, than

a Bishop of the Reformed Church ; and I would humbly advise that Reverend Prelate that broached it, to remit it back again beyond the Line, from whence it came, that the Christian Church be not any more troubled with such *Turkish* and Anti-Christian Positions. The Scriptures tell us, that the first Christians rejoiced in being accounted worthy to suffer for the Name of the Lord Jesus. And the Orthodox Church of *England* did not glory so much in any one Doctrine, as in that of *Passive Obedience* to the Civil Magistrate ; it being the great Badge and Characteristick whereby that Church was distinguished from all other Churches, both Popish and Protestant, all the World over : And shall a Reverend Bishop of the same Church so far forget her Doctrines, as to destroy them, by Establishing the contrary, because forsooth, upon some exigency it might be thought agreeable to the Humours, Interests, and Passions of some leading Men, in the circumstances they were then engaged, and who perhaps upon such an universal Turn of the State, were of the thoughts of laying new Foundations in the Church and matters of Religion also. Indeed it were not amiss the Court believed this new Doctrine to be true, and the Subjects believed what the Gospel truly Teaches, to prevent the frequent Insultings of the Court upon the Subject on that score ; yet even this *salvo* had better come from the politick Designs of a Minister of State, than from the simplicity of a Prelate of the Church of Christ, who since he hath not been pleased to temper this his new beloved Doctrine with any such caution, ought to insert it among his other Retractions. It is not every

every Doctor that is quick sighted in School Debates, that may have a Talent for the Pulpit or the Press, that is fit at every time, out of the exuberancy of Wit and Fancy, to handle the great Truths of the Gospel, especially when they relate to the Civil State; these are edge Tools not fit for every one to handle, and the most pious and wisest of Churchmen we find commonly shun them: True Divinity is different from the Notional and Polemick, it's a quick Understanding in the Fear of the Lord, a Ray cast into and kindly received in a well purified Soul, which gives it a clear distinct sight, and true estimate of the different Value to be put on things by all good Christians, especially by the Professors and Teachers of the Doctrines of Christ.

The inventing thus of new Doctrines, and pressing them as so many Articles of Faith, I really take to be much the Source and Spring of the many Divisions among Christians, who if they were let alone to believe the plain Doctrines of the Gospel, the Apostles Creed, and the Decalogue, there would undoubtedly be more of true Unity and Harmony among them, than there is at this day. Does not the antient Creed, commonly called *the Apostolick Creed*, contain all that's necessary for Salvation? And if so, what needs any more? The antient Church received this Symbol as the Epitome and sum Total of their Faith, and profess publicly their Belief thereof every day in the Church where they met, as a publick Sign of Unity. And if these antient Christians that lived so nigh the purest Times, and consequently best knew the mind of Christ and his Apostles, believed it then, why should we not

not now? I hope the State of Salvation is not now any ways altered from what it was, and if it was then judged a full and complete System of their Faith, why any other, or what needs any more? We all believe it with a Divine Faith, being there is nothing in it but what is expressly agreeable to the Scripture. Did we seriously employ more of our precious time, in putting in practice those plain and few Articles of Faith, than in forming and inventing new ones, we wou'd make the Terms of Salvation and Church Communion more extensive, easie and plausible, and consequently bring in many to the Church that now causelessly stand out. Our time is but short in this World, and therefore our great Business should be, to know what's truly necessary and fundamental, without ever troubling our heads with what are præter Fundamental. Sure I am, that great Man in Authority under the Queen of *Ethiopia* (whether he was her Secretary or Treasurer, is all a case) mentioned in the Acts of the Apostles, made no such nice distinctions in the Confessions of his Faith to *Philip*, but was received into the Church upon few and easie Terms: Saith he to *Philip*, *See here is water, what doth it hinder me to be Baptized*: *Philip said, If thou believest with all thine heart, thou mayst*: And he answered and said, *I believe that Jesus Christ is the Son of God*; and immediately he was Baptized. *Paul* no sooner received his Sight than forthwith he arose and was Baptized, saith the Text. *Acts 8.*
Acts 9.18.
See here all the necessary Terms of Admission into the Church. It is not then the Quantity, but the Quality of our Faith that saves us, and which God principally requires. I deny not

not if one comes to the knowledge and belief of more Articles, it's still the better with him, tho' there be no more necessary. *Hast thou more Faith (saith the Apostle) have it to thy self; happy is he who condemneth not himself in the thing which he alloweth.*

Rom. 14:

Thus I have plainly and fully delivered in the general, what our Lord and his Apostles in the Scriptures taught, concerning the Churches Unity, and that with respect to the present Differences among us at this day, concerning the Terms of Church Communion; and have withal ventured to subjoin my own weak Opinion, with the ingenuity and plainness that becomes a Christian treating of such a tender Point, and therefore I expect will be candidly interpreted by the Reader. It now remains I shew the Practice of the first Christians, which was exactly conformable to the Doctrine of Christ and his Apostles.

S E C T. III.

S E C T. III.

Of the Practise of the first Christians, as to Church Unity, &c.

THE nearer one drinks to the Fountain, the clearer the Water is, the nearer the first Christians lived to the days of Christ, and his Apostles, the clearer view they had of the Truths taught by them; and particularly so much of them as related to Church Unity, which as it was our Lord's Legacy to his Church and Followers, so it was that which was principally enjoyed and practised by the first Christians. Thus we read in the Acts of the Apostles, *That the multitude of the first believers, were not only of one heart, and of one mind, chap. 4. but they also came together with one accord into one place, chap. 1.* And when by their daily coming in to the Church they began to grow and multiply, so as they cou'd not conveniently meet as before in one place: Yet the same self Principle of Union was still kept up by their frequent and mutual Communication with each other, and they never met nor parted from one another without the kiss of Peace; it was than that the Spirit of Unity and Love that centered in the Head was lively diffused into the Members of the Church, * *The whole World was then United by the Commerce of Credential Letters, and the Fellowship of Miletan. Communion, as an ancient well expresses it. lib. 2.* Hence it is, that in the Ancient Church, the
A&

Act of any particular Church that's conformable to our Saviour's Institution and the universally received Practice of his Church, was still lookt upon as an Act of the whole Catholick Church, as in the cases of Baptism and Excommunication, he that was baptised in one particular Church, was always esteemed a Member of the Catholick Church every where: So he that was Excluded or Excommunicated in one Church was lookt upon as such, in all other Churches, nor cou'd he be received into Communion, till that Sentence were first reversed by the same or a higher Power, conform to the fifth Canon of the *Necean Council*. They had then their communicatory Letters, whereby every particular Church was Accountable to its Neighbour Churches, nor could they go at random from the one to the other, without having these Testimonials and Credentials in their Company, ready to produce; As was just now observed out of *Optatus*, and the reason of this was, that the one might not do what the other undoes: which would certainly lead them to confusions and distractions, and so dissolve that sacred bond of Unity which they had hitherto inviolably observed.

Pray, to what do the Sacraments of the New Testament send? But to preserve Unity among the Members of Christ's Mystical Body,

* Which is as Baptism Initiates us * into the Church and the same, as makes us Christians, and one with all the Members of the Church Catholick, as Circumcision to be taken in covenant did under the Law; so the Lord's Supper confirms us in this one Faith; *For we being many*

* 1 Cor.
10. 17.

are one Bread and one Body; for we are all partakers of that one Bread, * saith the Apostle. And the same Apostle propoundeth both our Bap-

Part II. of Scotland and England.

31

Baptism and our Drinking of the Lord's Cup, as so many Seals of the Spiritual Union and Conjunction of us all into one Mystical Body: For as the Body is one, and hath many Members, and *all the Members of that one Body being many, are one Body; so also is Christ, i. e. the Christian Church. For by one Spirit are we all Baptized into one Body, whether we be Jews or Gentiles; whether we be bond or free, and have been all made to drink into one Spirit: and verse 27, he addeth, That we are the Body of Christ, and Members in particular.* Consonant to which Doctrine, the same Apostle in another place tells us, *That we being many are one Body in Christ, and every one Members one of another.* The Blessed Sacrament then of the Lord's Supper, is a sacred Seal not only of the Union which we have with our Head by Faith, but also of our intimate Conjunction with other Members of the Body, by Love and Charity: We are United unto Christ our Head by having the self same Spirit, which is in him derived into every one of his true Members, that they become quickned and enlivened thereby; for the formal Reason of the Union of the Members, consisteth not in the continuity of the Parts (albeit that also be requisite to the Unity of a natural Body) as in the Animation thereof by one and the self same Spirit; which by the Schoolmen is called *Unitas Originis*; which actuates the several Members of the same Body with a Living Principle of Union, and communicates Life and Motion to each part thereof to that end, and may well be said to be *totum in toto & totum in qualibet loci parte*. But is it not strange that this Blessed Sacrament, which was principally designed by our Lord

1 Cor. 12.
12, 13. &c.

Rom. 12.

Lord as the great Gospel Ligament, to knit all Christians together, should now be made the Mother and Source of the Divisions among them, by their confounding of those things which in their own Natures are different as may be. It is certainly the great Policy of the wicked one, to make that a Bone of Contention which should be the Bond of Peace and Love. It was intended we see, to be a Contestation and Union of Christian Societies to God and one another, but Men's evil taking of it, divides them from one another.

Jer. 25.

This Union we have with our Head Christ, as well as with his Members, shou'd naturally induce us to have a tender care one of another, which the same Apostle in the forecited Chapter, exemplifieth by the mutual Sympathy and Fellow-feeling, which the Members of the same Body have one with another, as if they were Twins of one Womb; *for whether one Member suffer, all the Members suffer with it, or one Member be honored, all the Members rejoice with it, v. 26. and then addeth, Now ye are the Body of Christ, and Members in particular; thereby to let us know, that as we are made **

Eph. 3. 6.

** Συσσωμα*

2 Cor. 7. 3

συναποθαν ειν η συζων

Co-partners of Christ's Promises, so we should have one another in our Hearts, *εἰς το* to live and die as it were together. Whenever we hear of our Brethrens being Persecuted in Idolatrous Countries, we should be inwardly touched for their Calamity, otherwise we cannot pretend to be lively Members of Christ's Body. There is a Denunciation of a Wo pronounced against such as are at ease in *Sion*, and that are not grieved for the afflictions of *Joseph*; that is, against such as turn with the Times, and swim

Amos 6.

Part II. of Scotland and England.

33

swim with every Tide, and fawns upon Persons that are great in Power; as a learned Interpreter has it. Does not our coldness and unconcernedness all this while, for the Persecution of our Brethren in Foreign Countries, make God to bring it now nearer our Doors; and to threaten our selves with the same stroke, unless we set about in due time this desirable Work of the Union of all Protestants, at least as far as may be we should remember them that are in Bond, as bound with them, and to bleed at the unheard of Cruelties they daily suffer, for cleaving to the pure Truths of God. And the more that Foreign Countries strive to keep us at variance, the more eager we should be to Unite.

Q SECT. IV.

S E C T. IV.

A further Prosecution of the same Argument; The Necessity of believing the Catholick Church, and the true Notion of a Church, &c.

A Further Instance of the Practice of the Antient Christians, touching the Unity of the Church, in conformity to our Saviour and his Apostles Doctrine, is that express Profession of their constant Belief, and uniform Perswasion of *one holy Catholick Church*, and of the *Communion of Saints*; as we have it plainly set down in the ninth and tenth Articles of the Apostolick Creed: For so the *Alexandrian*, as well as the *Jerusalem* Copies, mentioned by *Cyril*, read it, *Μιὰν καὶ μὴν τὴν καθολικὴν*

Theodoret.
Hist. l. 2. c. 4.
Edit. Vales.

τὴν Ἀποστολικὴν ἐκκλησίαν. If to believe in one holy Catholick Church be one of the Fundamental Articles of our Faith, then there is an indispensable Obligation on all Christians to keep this Unity, and to adhere unto that Body of Christians which diffused over all the World, retains the Faith taught, and Discipline settled, and the Practices appointed by Christ and his Apostles: And since *Remission of Sins* is ministred by her, and *Life Everlasting* obtained in her, we cannot but believe this Article to be propounded as an object of Faith.

Cyprian.
Epist. ad
magnum
Edit. Oxon.

And since by the Practice of many Protestants in this Isle of *Britain*, the Profession and Belief of this Fundamental Article, has been either

either wilfully neglected, or not rightly understood by them: it is not amiss that I here tell them, that sometimes every particular Assembly or Congregation of Christians, and sometimes a fuller and larger Collection of such particular Congregations combine together in one Order, or under one Government, to go commonly under the Name of *ἐκκλησία* Churches. Sometimes the whole Aggregation of all Churches, and of all Christian People over the World, may be termed the Church; and if we look to the original Signification thereof in the *Hebrew* *קָהָל* whence some think the word *ἐκκλησία* doth come, we shall find this acceptation of the word to hold true, for the whole Body of the People that professed *Judaism*, and gave Obedience to the *Jewish* Law, which certainly was a Figure of the Christian Church, was so called. The few Acceptions now mentioned, the Church, in the Language of the New Testament, doth commonly denote a company of Persons professing the Christian Faith, but not in the same Degree and Latitude; for sometimes it's taken in a Sense partly extensive, partly restrictive; so as to signifie all those good Men, and only such, which in all places and at all times did, or shall serve and worship the true God. In which Sense *John Hufs's* * Definition of the * *John Hufscœtus Prædestinatorum.* Church may be understood. And as at some times it admitteth of Plurality and Distinction, so it reduceth all again into Conjunction and Unity; tho' the Churches of God be differenced and diversified as many, yet sometimes, as many as they are, they are included in one. Thus Millions of Persons, and Multitudes of Congregations, are linked and united

ted into one Body, and so become one Church. The Notion then of a Church is obvious to the meanest Capacity; to wit, the Aggregation or Collection of Persons professing true Faith in Christ, gathered together in diverse parts of the World, for the Worship of the same true God, and united into the same aggregate Body, by the foresaid means. *This is the Sion which the Lord hath chosen, which he hath desired for his habitation, where he hath resolved to place his rest and residence for ever. This is the House of God that is built upon a Rock, against which the gates of Hell shall not be able to prevail. This is the new Jerusalem which is the Mother of us all;* as was before observed out of *Hebrews* 12. By which means we are privileged to be Domesticks and Familiars of the House of God; as the Apostle speaks, *οικτιρι τῷ θεῷ* Redeemed by the precious Blood of Christ, sanctified by his Spirit, as professing a Holy Faith, partakers of the heavenly Calling, furnished with heavenly Graces and Dispositions, for performing holy Duties, &c.

Psal. 132.
v. 13.

1 Cor. 3
17.

Shall we not who are thus dignified and privileged, live up to our Priviledges we that are Domesticks of the *Houhold of Faith*, and *Fellow Citizens with the Saints*; Ought we not to be as entire Familiars, and live as Brothers, and upon any Publick occasion joyn together as one Man, and to *stand fast in one Spirit, with one mind, striving together for Faith of the Gospel, and in nothing terrified by our Adversaries*, as the Apostle earnestly Exhorts, * This made the Church in the Song to be Stiled *Solomon* Terrible as an Army with Banners; By keeping such close Ranks, when she Engages the common Enemy, that they

* Phil. 1.
27, 28.

they cannot well break in upon them ; Yet such is the Unruliness and disorder of Mans nature, that many for all this, break rank and will not obey the word of Command, and in the mean while the Enemies is busie, making amutiny in the Camp, and which is saddest of all, even the Sentinells and Watchmen themselves which were appointed to be as Safeguards and Overseers thereto, often prove to be the Enemies and Smiters of it, for to use the Prophets phrase, *The Pastors are become Brutish, and have not sought the Lord, therefore they shall not Prosper, and all their Flocks shall be Scattered.*

Thus we see the Doctrine of our Lord, and the Practice of his Apostles and Followers, plainly pressing all sorts of Christians to Unity. It being the great mean ordained in all ages of the Church for to preserve the Truth ; And as I have made bold to Address my self to the Learned Gentlemen of the Church of England in behalf of those that now dissent from them, and reasoned only from their own Principles, and received practice, how necessary and proper it is for them to admit at this time, the body of Dissenters that still stands out, perhaps upon these or the like grounds, Transiently now hinted at by me in Justification of their dissent. I hope my own Countrymen upon whose account I mainly undertook this Vindication will not be offended (That e're I close this sheet which its like has swelled much beyond my Expectation) that I address my self to them in the same humble and peacefull manner.

Now that the Church of *England* is without stretched Arms, ready to Embrace you, and that for the most part on your own terms,

will ye not be so discreet to meet them half way, and make a Sutable return to any kind offers to be Proposed : As was proposed in the late Reignes, and declare how far ye can go, and prepare your hearts accordingly. For shame let us not be stingy, when our ALL is at Stake, and matters of greater Moment than Trivial Rites and Ceremonies are laid in the Ballance ; Now when the Eyes of all *Europe* are upon us. If the *Dutch* and *French* be so Solicitous as to keep *Brittain* from such a desirable Union at this time ; Ought we not the rather to Unite among our selves, since there is more of self in their Design, than our good.

And that I may keep the Scales in an even ballance, and do Justice to either side according to my promise, and intended method. I must be allowed to represent here in the general, what the Advocates for the Church of *England* may say for themselves, and what they may reply to the Reasons adduced by her dissenting Brethren, and our Kirkmen.

CHAP. II.

The Doctrine of the Church of England, in Relation to Presbyterians and other Dissenters plainly set down from her Articles and Canons, &c.

First, then they tell us, that the Dissenters (under which they comprehend our *Presbyterians*) have the misfortune by their humour and Education, to labour under a double mistake about the peaceable temper of their Church: For first, they are not at the pains to examine the Canons and Constitution of that Church, and next the little knowledge we have of them, is borrowed from the second hand, and commonly from some Doctors and Churchmen, who might not have rightly understood the true Constitution of the Church, but given out their own fond Conceits and self wedded opinions, for the Doctrines and Canons thereof; This as it hath led many into a wrong notion of the *English* Church and its Doctrines. So it hath increased not only the number of Dissenters from her, but also hath heightened their livid Zeal so far, as every where to cry her down as a corrupt, Superstitious Church; when as had the Dissenters (say they) calmly enquired into her Doctrines and Constitutions, and drunk them from the fountain instead of the narrow muddy rivulets, through which they passed, they would have been better satisfied with her, and not near so scrupulous

pulous in matters Indifferent, It's therefore her Canons, Articles, and Constitutions, and not the Dogmatick positions of her Doctours, that ought to be first known, and enquired into by us, e're we enter the lists with them.

Those of the Communion of the Church of *England* seriously therefore desire, that all those of a different Communion from them may consider, that it is not Reasonable to exact or require what is simply impossible to be had in this Life, to wit, Absolute perfection in Government, thats reserved for another Orb: For if People stand out because they think some things may be better; they'l never come in: because they'l still find something to mend, nor do I know of any Church on Earth, that pretends to be so perfect, as to be without Spot or Wrinkle. *Ultra etiam progreditur eorum morositas & fastus quia Ecclesiam non agnoscunt nisi minimis quibusq; navis puram.* And since there is nothing in this World so perfect, but may have its exceptions framed against it, That Church then we reckon to be the perfectest, that's lyable to the fewest Exceptions.

Calvin. 1.4.
c. 1.

2. Next they would have us of *Scotland* to consider, that the Presbyterians do them Injustice, by arguing from the State of the Church in her infancy, to the State thereof in her full Stature: It's one thing to be a Society or Church *in fieri*, another thing to be *in facto esse*, or as they are pleased to distinguish, it's one thing to be *Ecclesia Constituenda*, and another in *Ecclesia Constituta*. The case now is quite different from the condition of the Church, when it was forc'd to meet privately in low and poor Conventicles, simple Oratories, and

Part II. of Scotland and England.

41

in Caves under ground, for fear of Persecution, as the Primitive Christians were of old, as you may learn from the Book of Homilies: For People now to run to Holes and private Conventicles, because that was the Practice of the Church then, when they had no Christian Magistrate to Authorise them, is, they think, unwarrantable, and no good consequence, when the formal Reason of both is not the same.

*Homily of
Idolatry,
part. 3.*

3. They do constantly affirm, That in hope of removing all suspicion of what is blame worthy, there have from time to time been many Concessions made, for the utmost satisfaction of all zealous Spirits, in what hath been judged proper and expedient: And that not only in Queen *Elizabeths* time some alterations were made in this particular, but even since the Reformation was fully Established, there have been Concessions made in accommodation to Dissenters. Their Church still holding *the Golden Mean between too much Moroseness, and too much easiness in admitting Variations*, saith the Preface to their *Liturgy or Common-Prayer Book*: In which Liturgy they are likewise commanded to pray for all Men, and for their Enemies, Persecutors, and Slanders, &c. In their Church every one is presumed good, until the contrary be made appear. They do not give out themselves to be the only Elect Children of God, nor too pure to Communicate with others; yet they are firmly persuaded, that they are the true Members of the true Church of Christ. They are taught not to give Names to their Adversaries of any sort, it being contrary to the Gospel Temper with which it Ministers ought to be endowed. So in the Subscription for
the

Confe-
rence at
Himpton-
Court,
August 4.
1623.

Liturgy.

Canon 3,
and 66.

the Univerſity Preachers (where it may well be ſuppoſed hot-headed young Men might extravagance,) they ſolemnly Promiſe, that *they will Preach without odious Inveſtives, and indiſcreet Diſcourſes, by Name or plain Circumſtances, and that they will not Deſame any Man, &c.* To the ſame purpoſe was Queen Elizabeths Injunction, *That the knot of all Chriſtian Society, which is Charity, be not looſed, the Queens Maſteſty Commands, That all her loving Subjects forbear all vain Contentions and Diſputations in matters of Religion, and not to uſe railing Convitiuous Words, &c.* That is, in her Succeſſor King James's Language, *not to make Paſquils of their Pulpits.* They after the example of the antient Church, call the Diſſenters Brethren, and are ſtill ready to embrace them as ſuch; did they ſhake off their infant Prejudice againſt their Church, which ordains her Miniſters and Paſtors to uſe all right means, by private Conferences, or otherwiſe, to bring in a diſſenting Brother, and with tender Care to receive the Infirm and Weak, and to guard them, e're they be led unawares into doubtful Diſputations; that ſo their Prayers for *all ſuch as have erred and gone aſtray, may be led into the way of Truth,* may be the better heard. Theſe things, in the judgment of Charity, we are bound to believe, to be their true Intent and Meaning, being they are at large ſet down in the Canons of their Church, Anno 1603 and 1604.

S E C T.

S E C T. I.

*Answers by those of the Church of England
to the Scruples propounded by the Dis-
senters.*

FROM what is said of the good Temper and Gentleness of the *English* Church in general, one should think there is little cause to cry out so much against her Establishment and Constitution; that she either Persecutes any that differs from her, or yet denies a just Latitude to such Dissenters as happen to live in their Nation, and under that Government. It's true, the Dissenters cry out (as was hinted some pages before) That the Terms of Church Communion are still too narrow, and forced, when as nothing ought to be more voluntary as Religion, and the Profession thereof, in a Christian State, nor more free, being it's the very deliberate choice of our Mind, otherwise it cannot be called our *reasonable Service*, as the Apostle *Peter* phrases it; but by imposing legal Penalties, it becomes Mercenary and Servile. Next, That no Persons ought to be compell'd to Believe, since it is the gift of God, and must follow the evidence of things to the Understanding. They likewise urge, That what the *English* Church call Indifferent, that they make matter of Conscience of, and therefore ought not to suffer, or be severely dealt with, when they follow the pure Dictates of their Conscience, and that good Counsels and seasonable Admonitions,

ons; would be a sure way and a proper Method to bring them into the Church.

Ansiv. 1. There is no doubt (say those of the Church of *England*) but that gentle methods, by good Counsels and Instructions, ought still to be first made use of; but what shall be done, say they, when these do not prevail? And tho' Religion ought to be free and voluntary, and not be made liable to civil Penalties and pecuniary Mulcts; yet if Persons be voluntarily Heretical, Vitious, and Schismatical, must not the Christian Magistrates animadvert upon them, otherwise Religion will be made a Cloak for all sorts of Wickedness, and Christian Liberty made a scug for Licentiousness. And if Penalties be not uniformly exacted, but incline to some excess or other, either to Injustice or Cruelty, they serve only to confirm Dissenters in their former Opinions; whereas if the true Ends and Measures of Penalties, and such like Punishments were duly observed, they would be then considered but as so many Monitors, to rouse up and awaken the minds of Criminals, into a due regard of their Duty: Nor can we ever reasonably think it will conduce either to the Peace of the Church, or the quiet and security of the State, that every Man should live as he lists, and shall be judge whether he hath right to think or speak in matters of Religion, whatever he pleaseth; as Atheistical *Spinoza* would have it. When Errors in Theory become voluntary, and once seated in the Understanding, they become Sinful, and are the Sources and Springs of Irreligion and Vice: And therefore as the Interest

rest of the State may be concerned, so they properly may come under the Animadversion of Laws.

Ans. 2. Thus when Persons have once profest their Belief, and thereby become Church Members in a Christian Commonwealth, they cannot be said to be any ways compelled to believe what they had not a mind to believe; for while they Incorporate themselves in the Church (which is an aggregate Body or Society of Christians) they must inevitably be Subject to its Laws, and the Execution thereof, on contumacious Delinquents; otherwise their going into that Society would only be of purpose to destroy it. And the case is different now from what it was in the day-dawning of Christianity, between Infidels and Novices in the Christian Faith, and adult Christians that have been taught and trained therein. So that this case, however plausibly proposed by the Dissenters, can no ways meet with their present Circumstances, who profess themselves to be not only above the common level of weak Christians and Babes in Christ, but Saints who are better acquainted with the Mind of God than others presume to think they are: And when such disturb the Peace of the Church, out of some pre-conceived Prejudices caused by some irregular Inclination of their stubborn Wills, or the byass of Education against the Church. Ought not the Laws be as so many Schoolmasters, to correct them false Ideas which they have so early drunk in, to the endangering the Ruin and Dissolution of that Christian Society of which they profess themselves to be Members.

Ans.

Rom. 13.

Ans. 3. A Conscience therefore that will needs shake off all Obedience and Subjection, and spurn against the Execution of all human Laws, cannot by sober Christians be called Conscience; since the Apostle tells us, *we must be subject for Conscience sake*: And therefore if any Persons happen to be punisht for Disobedience, his Conscience by counter-acting cannot render that Penalty or Punishment in it self unjust, when the Laws themselves are agreed too to be good, and the Execution made only according to these Laws; and this is no other than what God's own People the Jews were subject to, under the Kings of Judah and Israel, and what Christian Princes have ever since practised, meerly for the good of the Church; which may be seen by any that pleases to read the first Title of the first Book of *Justinian's Codex*, and in the following Titles: There we'll see the Emperors *Theodosius* and *Valentinian* declare, *That it is their Duty to cause their Subjects to observe due Measures in Religion*, l. 3. *Codicis de sum. Trinitat. &c.* and *Seet. 3. eod.* They command that all that have vented doubtful and ambiguous Doctrines, not exactly agreeable to the Orthodox Faith, their Books containing such Doctrines to be burnt, and themselves punisht, l. 4. *eod.* is much to the same purpose, forbidding both Churchmen and Laicks, on the account of Religion, to gather private Conventicles; for from these Practises flow disturbances in Church and State. And since we have made mention of *Justinian's Codex* to prove this Point, it's not impertinent we give his own Words and Sanction; *Si civiles leges quarum potestatem nobis Deus sua in homines benignitate credidit, firmas ab omnibus custodire*

Novel. 137

Part II. of Scotland and England.

47

studire ad obedientium salutem studemus; quanto plus studii adhibere debemus, circa Sanctorum Canonum & Divinarum legum custodiam. What that Custody was, is I believe fully told us, l. 33. *Cod. de Episcopis & Clericis*: From which it's probable we have borrowed that Expression of calling our King *Custos & Vindex utriusque Tabulae*. It's generally known, especially to such as are versant in Ecclesiastical History, what Power *Constantine* the Great exercised over the Churches, and what Marches he made betwixt the Civil and the Ecclesiastick Jurisdiction, any that reads *Eusebius* or *Theodore's* Ecclesiastical History, there he is called *Episcopus*, *πρεσβυς* in *Eusebius*, *Communis Episcopus a Deo Constitutus*, &c. But all their power is confined to the external Regiment of the Church, and the Prerogatives of our Kings is declared to go no farther; which the Advocates for the Church of *England* think cannot in reason be denied him, by any Subject that professes himself to be a Member of a Christian Society within these Kingdoms; and what do they herein, but what we in *Scotland* have done, and what the *Independants* of *New England* have exercised over *Quakers* and *Antinomians*? And if the Reason be good as to them, why not as to the Church of *England* too? And since by experience it's found, that no Society nor Church can well subsist, without having such Laws and Penalties to fence and guard it, they wonder at the confidence of Dissenters, in making this ground of Cavil and Objection against their Church. And this leads me to the Fourth Thing to be considered, and that is, a Latitude and Toleration to be granted to the Dissenters, so much pleaded for in the late Reigns. Which

Theodore's
l. i. c. 17.

Lib. i. c. 19.
Euseb. l. 4.
Vita Constant. Edit.
Vales.

* Like that
of Revel.
9. 8.

Answ. 4. Which it in self I must needs say is a plausible proposal and very taking with all sorts of Persons,* and it looks like a Priviledge which every Man hath an Interest in, which, since it's enjoyed by all Men alike, no Man should think he has any just cause to envy it to any other, yet the Gentlemen of the Church of *England*, notwithstanding of this plausible Plea, think they want not sufficient grounds to justify the Proceedings of their Church, in reference to Liberty of Conscience and Toleration, and therefore they plainly tell us, that such a Toleration as is pleaded for doth open a Door to all manner of Wickedness and Vice; and crumble Religion into nothing by the infinite Divisions made thereof, and gives a free opportunity to Papists and Popish Emissaries to do that openly and under the shadow of Authority, which they durst before attempt but secretly, a ready way to divide us among our selves; and thereby weaken both Parties so as to have the necks of both made subject to the *Roman See*, That this hath been the politick and constant practice of Papists none that understands the Affairs of *Europe*, nor yet the State of *Britain*, but knows this to be a certain truth.

Our Neighbour State of *Holland* is methinks a sad Instance of this; for by their giving Toleration in Religion it's full scouth and extent we see what footing in so few years Popery has thereby got among them: And what progress other Sects have made, the swarms of *Socinians*, *Anabaptists*, &c. and *Jews* and some of a worse Mark, is a plain demonstration thereof. Did not the *Arminians* and those of the *Barnevald Faction* some years ago, vie even with
the

the *Calvinists* themselves, albeit it be the regnant Religion in these Countries, the *Dutch* are ordinarily of a colder Temper and Complexion than we, and they adapt their Religion especially as to externals to the Common Interest and Peace of their State, that they may the better carry on their Trade and Traffick: So that a Toleration of all, or possibly of no Religion, might well consist with their Tempers; but they little understand our Climate or Temper, that think we can bear with the same Latitude in Religion, and therefore to argue from their State to ours is to commit an error in Logicks, called by the Philosopher *μεταβάσις εἰς ἀλλοτρίον* Aristot. to run from one argumentation to another. It is not long since we heard that when the Christians were under severe Persecution in *Japan*, the Heathen Inquisitors happened to meet a Company of *Dutch*, and began to enquire of them if they were Christians; they all presently answered, *that they were Hollanders*, and so escaped the Fire; shall we argue from such flegmatick Professors to the more sanguine ones in this Country, who have suffered Death meerly (as they say themselves) upon the account of external Church-Government, which all Christians think to be of far less moment than the Profession of Christianity it self. Any that thinks it worth his while to read Master *Fowle's* History of pretended Saints, will find Instances enough to this purpose, not only among the Reformed States and Churches abroad, where these Divisions of Sectaries were kindled by Papists, as *Switzerland*, *Bohemia*, and throughout *Germany*, but in this Island of *Britain* also, in the Usurper *Oliver Cromwell's* time, as a Reverend

R. Author

Popish
Principles
by Dr. Bar-
low. 8vo.

An. 1654

Author plainly affirms; in which a greater liberty was granted Papists, than in King Charles the First's time, tho' he suffered for being suspected to be a favourer of them; yet the same *Oliver Cromwell*, in a solemn Speech to one of his Parliaments * openly affirmed, *That he could prove by Witnesses, that the Papists had a Cabinet Council, in which they Governed all the Affairs in England.* About the time of the King's Martyrdom, the Popish Emissaries were most willing to give all the assurance of their Fidelity to the then Government, which they would never do to King Charles, while the Church of *England* stood firm.

It's well known that *Julian* the Apostate was much cryed up and honoured with the name of a Moderate Prince, by the *Donatists* and *Circumcellians*, for granting a general Toleration to all sorts of Sects, in matters of Religion; which Serpentine (a) Method he
(a) Plus metuendus est & cavendus inimicus, cum latenter obrepit, cum per pacis imaginem fallens, occultis accessibus serpit, unde & Serpentis nomen accepit. *Cyprian. de Unitat. Eccles.*

* *Amnian.*
Marcellin.
Lib. 23.
Augustine
Epist.

found to be more effectual for destroying the Christian Church, than that of open Persecution, having by experience found, that no wilder Beasts are so enraged against one another, as disagreeing Christians, saith the Historian; * and that wicked Prince was no sooner dead, than Disputes and Questions were of new set on foot, by those that were set over the Churches; upon which practice the Ecclesiastick Historian makes this Observation; ἔπειτα πᾶσι τοῖς ἀνθρώποις φίλον παρ' ἐτέραν μὴ ἀδικημένοις πρὸς τὸ ὁμόφρονον αἰνεῖν, ἀπαραγμενοῖς δὲ αὐτοῖς τῆς ἐξωθεν κακῶν πρὸς σφάουρας σασι-
ξίν.

Men

Men are so enclined, that when they are wronged by others, they are at peace among themselves ; but when they are not in fear of Injuries from without them, then they make ill Blood, and raise Insurrections against one another.* It would be very odd if the readiest way to introduce Popery, and extirpate the very Being and Essence of Christianity, should now be thought a good Expedient to promote the Protestant Interest in these Nations ; but we should not do evil that good may come of it, as the Apostle enjoins.

It's by our sad Divisions, occasioned by a License of several Sects of Christians, that the Papists reap their plentiful Harvest. How easie is it for a Popish Priest to turn a gifted Brother ? And how often hath this been practised in these late years in this and the Neighbouring Nations ? It's no hard matter for a nimble Mountebank, upon occasion, to turn the outside in of his Coat ; for so he affords the greater sport and diversion, and captivates the Eyes of the poor Spectators, the more to admire and follow him. There seems truly to run one prime Tenet of the *Romish* Church, through all the Veins of the Sectaries and Dissenters from the Church of *England*, which is implicate Faith, and a blind following of their Teachers and Leaders ; for they are all in mighty Admiration of their Teachers, contrary to the Apostle's Injunction, and pay them wonderful Respect, and treat them liberally on occasions, according to their abilities. All this is but originally a Popish Politick to gull the simple sort : So it were to be wisht, that Protestants, of whatever denomination,

Soromen.
Hist. Ec-
cles. lib. 6.
cap. 4 Edit.
Vales.

*Ea est ejus
semper a-
stutia, ea
est circum-
veniendi
hominis
caeca & la-
tebrofa
fallacia,
sive Cy-
prian. Unit.
Ecclis.
Princip.*

ation, wou'd carefully beware of it hereafter.

Anno 1644

There was a time when in this case a Presbyterian's Zeal was as warm as any Mans, and nothing in the whole World was in their esteem more frightful, more intollerable, than the Proposal of Comprehension and Toleration; nay their Presbyterian Ministers within the Province of London, Decemb. 14. 1647. gave publick Testimony against it. And the Dissenters from the Presbyterian Way then, begged freedom from their Impositions, as they do now from the Church of England, yet cou'd not obtain it from them, tho' they had the same pretences, and had the same natural Right to Freedom and Christian Liberty, that any other Man had: Besides they merit no less at their hands, by the mutual Contributions of Blood and Treasure, they furnished to promote their Cause. I have seen a Book, then licensed by one Crawford, * wherein we are told, *That liberty of Heresie and Schism, is no part of the Liberty of Conscience which Chr. st hath purchased for us, but that under these fair Colours and handsom Pretexts, Sectaries infuse their Poyson, their pernicious, God-provoking, Truth-defacing, Church-ruinating, and State-shaking Toleration.*

* Wholsom
Severity re-
conciled
with chris-
tian Liber-
ty.

And now albeit the Church of England shou'd comply with them in most of their Demands, for Liberty and Toleration, and grant more than reasonably can be expected from her, which is, to let a principal one of these Dissenting Parties be uppermost, even that (say they) will not cure our Divisions, but they'll be as many and fierce as ever: Nor will others endure that any one of them should be

Para-

Paramount, and sit up over the rest: For they have already experimented their Severity, in the time of the late Anarchy, which made them cry as loud for a Toleration from them then, as now from their Church, and would think themselves greatly wronged by such a Proposal. Therefore say the Church of *England* Men, any that loves Peace, and are afraid of Popery, ought to be for the welfare and prosperity of their Church, as it is now Established by Law.

*Inde furor vulgo, quod numina vicinorum
Odit uterq; locus, quum solos credat habendos
Esse Deos, quos ipse colit,——*

Juvenal.
Satyr. 15.

And albeit Dissenters be numerous and rich, and would seem to be all united against the Church of *England*, yet it's thought, that if any would please to make a true Reflection on the variety and contradiction which is among themselves, it might bring one to a true Sense of the unreasonableness of the opposition they still make to the Established Church. And whatever Correspondence may be between them at present, it ought to be lookt upon either by themselves, or any one else, as any Union or Agreement lately made among them, but meerly as a Combination against the Established Settlement of the Church, * which they are all weary of. And no sooner would it be overthrown, than they would fall to their old Quarrels among themselves again: The tender Consciences of diverse sizes, would presently fall foul of one another, and Presbytery would be stiled the *Yoke of Antichrist*, and Independency the *Mother Confusion*.

*Unitas sine veritate
proditio
est. *Syrian.*

* See Post-
script.

Nay, they come nearer home to us of *Scotland*, and plainly tell us, That the Presbyterian Ministers accepting a Liberty and Toleration from the late King *James*, upon the paramount Proclamation then issued forth to that end, to break the then Establishd Government of the Church, was one of the widest steps made to introduce Popery in this Kingdom * since the Reformation; and the purport of the Earl of *Melfort*'s Letter in answer to their Address, declares no less; *which was* (they say) *to set up Presbytery upon the Ruins of the Protestant Religion.* Yet it's like the honest Ministers might have one view of it, and the Court another: Nor shall I much excuse them for doing it, but only to mind them, that by their accepting a Toleration from King *James*, they both by Principle and Practice, must needs hemologate any Toleration now to be granted the Episcopal Clergy, by our gracious Sovereign Queen *Anne*, who is known to be a zealous Protestant, and under God the only support of the Protestant Interest in *Europe*, especially that her Majesty has been graciously pleased to continue the same Liberty and Indulgence to Presbyterians, and other Dissenters in *England*, in the same Latitude and Extent that was granted them by her Predecessor King *William*; which the Church of *England* is willing and content they shou'd have, providing nothing by them contrary to the Establishd Laws, or destructive to the National Church. In retaliation of which, they shall expect their distressed Brethren of the Episcopal Persuasion, will enjoy the like Liberty and Toleration among us in *Scotland*.

By
L

By the few things among many that might be said, in Vindication of the *English Church*, towards her Dissenting Brethren, it's plain, that she well considers the Nature of poor Man, that he is a ticklish Animal, often led by the swing of his ungovern'd Will; and therefore e're he crack into pieces about things accounted by him matters of Religion, tho' by her but Modalities, and points Circumstantial, she allows that reasonable Liberty and Toleration that may be expected from a well Constitute Establish'd Church: She alloweth much to the Power of Prejudice, of Education, and the Artifices of Seducers, and wou'd go a greater length than yet she hath done, if it did consist with the true Ends of Government, and the security of her Communion, as it is natural for all Societies to do. The Church of *England* therefore strives to keep up the respect that's due to her, by laying stress chiefly on the weightiest Matters of the Law, judging that Modes and Ceremonies in Worship, are of less value.

Ans. 5. An Instance whereof we see in that *of Ceremo-*
Declaration she made, in the Preface of Ce-
monies set before the Liturgy, to wit, *That*
the keeping or omitting a Ceremony, in it self con-
sidered, is but a small thing, setting aside Peoples
wilful and contemptuous Transgression. In these our
doings (says the same Preface) we condemn no
other Nations, nor prescribe any thing but to our
own People only; for we think it convenient that
every Country should use such Ceremonies as they
shall think best. And lest this may not be
thought that Doctrine of the Church of *Eng-*
land, we are desired to cast our Eyes on the
Thirty Nine Articles of Religion, and the

Church Homilies, publickly Maintain'd and Pro-
 fess by them, and particularly on Article 34.
 where it is expressly said, *That Traditions and
 Ceremonies are not necessary in all places to be one
 and the same, and that every Particular or Na-
 tional Church, hath Authority to ordain, change,
 and abolish Ceremonies or Rites of the Church; so
 that all things be done to the edifying the Body of
 Christ.*

And now since the Presbyterians of Scotland
 take it for granted, That there is a firm A-
 greement between the Church of England and
 them, in Doctrinal Truths, of the Reformed
 Religion express in the Articles and Homilies;
 as their first Paper to his Majesty King Charles
 the First gives us to understand. Why should
 they stand so much on the abolition of Cere-
 monies, or account them of such value, whilst
 they are but meer Modalities and Circumstan-
 ces, for the greater Decency in publick Wor-
 ship, and the Nature of a Ceremony in it self
 considered, imports no more.

There may be a Superstitiousness in not u-
 sing the *Lords Prayer, Creed, and Doxology*, and
 in sitting on our breech in time of Prayer,
 and receiving the Sacrament, as much as in
 the frequent saying of them, and kneeling or
 standing at that time; and a fond Humour for
 these Negatives, especially when it's against a
 standing Law, may be much more Criminal in
 an honest peaceable Subject, than a due Obe-
 dience to the Laws and lawful Commands of
 the Christian Magistrate, who is the Minister
 of God appointed for ordering these things.
 And while we charge the Church of England
 with being in some points defective, and in
 others superfluous, we should by all means shun
 to

to split on the same Rock our selves, and not fall into faults of the same kind, of being either too deficient in our Duty, or too much wedded to these frivolous Exceptions we make against them and their Church. The Church of *England* thinks she suffers greater Persecution for keeping the golden Mean between the two extremes of Popery and Presbytery, than the Dissenters do by disobeying the Laws both Civil and Ecclesiastick.

And as to what was offered by the Dissenters in the Chapter preceding, about the significancy of some Ceremonies, they say, *That if the Ceremonies had been alledged to have been Insignificant, the Objection had been much stronger, because the Use and Nature of a Ceremony doth consist in being Significant*: For this they appeal to the common Judgment of Mankind, whether in any one action, Civil or Religious, was there any Ceremony ever Instituted, if it was not in order to signifie or denote something by it. But their Church hath taken care not only to vindicate the Innocency of the Ceremonies imposed by her, but also the Usefulness and Significancy of them; so in the forementioned Preface she tells us, *That they are neither dark nor dumb Ceremonies, but are so set forth that every Man may understand to what use they do serve: So that it is not like that in time to come they should come to be abused.* And they would have us look narrowly to our selves, and see that we make not our sitting at the Lord's Table, &c. to be a significant Ceremony, and to consider that she makes use of no Rites or Ceremonies, but what were used in the Primitive Church, in the purest days thereof.

And

And suppose her present Majesty should make a new Test of the Church of *England*; Loyalty and Obedience, by changing and altering several Ceremonies and Modes of worship, to please Presbyterians, and other Dissenters, (which is all that can be sought) yet we cannot (say they) reasonably infer from thence, that their former Church Constitution was so ill, as it was cryed out upon by them; these Grants and Concessions respecting only Futurities, ought not to be a ground of Accusation against their Church in things past; and it's against the Nature of such Grants and Priviledges, to be interpreted beyond the precise Nature and Quality of the thing granted, as Lawyers say. As this extraordinary Act of good Nature would commend the Church of *England* to all Men, so it would greatly aggravate the Dissenters guilt; for thereby she would let the World see, that her Proceedings against Dissenters, and Punishments of their Contempt, are as mild and gentle, as her Commands are reasonable.

SECT. II.

S E C T. II.

An Inference from what's aforesaid, with some further Reasonings of both Parties, and a different Notion of the Church, from what's set down in the preceding Chapters.

AND now since the various Sects of the Dissenters, will not let one of them be set up in Power and Authority above the other (being they all conclude that to be a palpable Injustice done to them:) And since the Church of *England* is in the possession of the Established Government, founded upon the Laws of *England*, all the Dissenters in that Nation ought to yield to her, more than she ^{* Regula} to them, according to the Rule in Law, ^{* In Juris.} *pari casu melior est conditio possidentis, non petentis.*

And for us in *Scotland* to join in Communion with them, it may be urged, That since *England* is three parts more than *Scotland*, and so as the greater will swallow up the lesser, upon a Coalition of both Nations, their Church must needs be three times greater than ours, tho' we were unite at home (as we are not) and therefore as the greater ought to draw us as the lesser part unto her, so the *English* expect that we join and unite with their Church rather than they with ours; the received Rule of *pars & totum* is the leading Reason here, as it is of all continuous or contiguous Bodies.

The

The Church of *England* then being in Possession of the Government time out of mind, and being by far the greater part of the two in the present intended Union of these Kingdoms, it will be thought unreasonable to seek to have the face of that Church and Government changed, that's founded upon the unquestionable Title of Prescription, especially when there is no sinfulness in the terms of Communion, and when there is as much gentleness and charity exerted therein, as in any other Society in the World.

It's true indeed, That Church is governed by Bishops, which order is abolished of late with us, not because we think Episcopacy in it felt unlawful, but that we cou'd not get Primitive Bishops to exercise it, and for any obligation upon us for the Solemn League and Covenant to renounce Prelacy, I hope no considering Person nor good Subject thinks that may be an obstacle, since by former as well as by late Acts of Parliament, it is declared to be a traiterous and rebellious Association, and few or none alive this day that took it; because we detest Popery, shall we therefore reject a Primitive Episcopacy, and because there may be some defects in Discipline in the Church of *England*, that therefore we ought to stand off, and separate from her, just as if we wou'd argue, because all Forms of Government in the State or Church are lame and imperfect; therefore we ought to obey none at all, such *Paralogisms* can have no weight with the more judicious and discerning Part of Mankind. And therefore on the other hand those of the Church of *England* stick not to affirm that their Church hath ever been the great and only

Part II. of Scotland and England.

61

only Bulwark against Popery since the Reformation in this Island of *Britain*, which they say she cou'd never have been, were it not, that her Government was still Episcopal, and a due Subordination observed among the several Officers of the Church: That so every thing might be regularly carried on for the maintenance of the Protestant Religion and Interest.

If we take the Notion of a Church from the Ancients, we'll find no Incongruity by having Bishops to preside therein, for what is the Church, say they, but *plebs adunata Episcopo*, * *Cyprian, lib. 4. Epi- ft. 9.* Nay according to that Platform of Church Government presented to the Parliament by Master *Andrew Melvill*. * *An. 1578. in St. Andrews.* It was agreed, that the Church was sometimes taken for them that Exercise the spiritual Function in particular Congregations. Nor is Master *Baxter's* Notion much abhorrent from this, for tho' in the Infancy of Christianity, (as was before remarked) the *πρεσβυτερος*, or President of the Church might make some voluntary condescensions to engage People the more to her Society and Communion, yet the Administration of that Power, did still reside in the Rulers of the Church, within their own Districts: But whether this President was fixt or constant, as the *English* Divines affirm, or ambulatory, as the *Scots* now say, is what they have not yet agreed upon, and tho' this question be much agitated at present, yet it mainly concerns Churchmen and not the Laity, and if both Parties did calmly consider, that e're things be done decently and in order as the Scriptures do enjoin, there is an absolute necessity one be set up to preside, whether for a time or during

Consult.
Art. 14.

during life, whether he be called President, Bishop or Moderate, it's much to the same purpose, since the nature of Order and Church Government does necessarily require that there be one to preside and moderate the rest, as often as there is occasion of meeting and determining of Church Matters, that Schisms might be repressed, as *Jerom*, and after him *Cassander* do affirm: And what is it to an humble pious Soul, to spend his time and his thoughts upon a question, that can have so little influence upon his Practice, nor yet increase his Devotion. An honest Citizen in *Rome* was not much concerned whether the Dictatorship was temporary or perpetual, if he enjoyed his former Privileges and Freedom, and the common Interest of the State rightly carried on: And truly if we rightly reflect on the true Notion of the Church complexly taken for a Society, with relation to a Christian Kingdom as this of *Scotland* is, Laicks and ordinary Christians are not to look upon themselves in the Category of spiritual Guides and Governours, as if they had any intrinseck Power in themselves to make new Bounds, or new Extents to the Churches Power and Authority, and consequently it is not to the collective body of Christians it belongs to reform what's done amiss, but to those Bishops or Pastors, to whom the peculiar oversight of the Church is by God entrusted, in order to redress what may be done amiss therein for the preservation of order and Unity therein. It's enough here we give credit to the last Advocate that hath appeared for the * Presbyterians, who positively affirms that we only differ about Modes of Worship, and that there is as great difference betwixt

* See *Diss-
couse of the
Union of
Scotland
and Eng-
land, lately
published,
1702.p.98.
and 99.*

twixt the Cathedral and Parochial worship in *England*, as betwixt their Church and ours, which yet makes no breach in the Union of the Church of *England*, far less then ought it to make in the intended Union betwixt them and us, being that neither side, can well claim to a Divine Right, and the unalterableness of one particular Species and Form of Church Government; and that the Arguments brought for the Superiority of one Order above another, from the *Mosaick* Dispensation, is much the same with those brought by the Levellers of that Superiority who yet are for a Subordination of Judicatories and Courts for maintaining the Classical Form: So if there be any absurdity in the first, there is as much in the latter, since the Arguments for both are drawn from the same Fountain, viz. The *Jewish* Pattern: And why we shou'd now think it more obliging as to Subordination of Courts, than as to Superiority of Orders I know not, since *a paritate rationis* if it holds in one case, it must in the other. If Persons wou'd thus impartially survey all the other Parts of this Controversie they might soon come to agree, and the Church come to Peace and Quiet; but while Churchmen find Laicks to foster and cherish them, in them fruitless debates (which only concern Churchmen themselves) to be sure they'll keep the Argument on foot for credit sake. But if we were wise to our selves, who are plain honest Men and Laicks, we wou'd hereafter reckon this Debate among the School Tenets, and esteem it as a speculation for exercising Scholastick Wits, since it only concerns themselves whether they shou'd be all equal, or one above another.

But

But I shall not now follow this Point any farther, being it dips upon a Controversie that I have shunned all along, as extrinsick to my present Scope and Design: Only the Gentlemen of the Church of *England* still aver, that we have never been at the pains to consider and throughly to understand their Church, nor yet its Government; for if we had, we wou'd think that Episcopacy as they have it, is the greatest opposition of any that can be made to Popery, for it cuts the Tree by the Root, I mean, the Popes usurped Jurisdiction over all other Churches and Bishops, according to that of St. Cyprian, *Episcopatus unus est, cu-*

** De Unitate. jus a singulis in solidum pars tenetur. ** And *alte Eccles. circa finem.* allows the Bishop of *Rome* but a Primacy of Order, as some of the Primitive Fathers did

before *Gregory* the Great, which Primacy and pretended Jurisdiction founded since thereupon, is no where so much opposed as with them in *England*. And the *English* Bishops writings against Popish Errors, doth sufficiently confirm the Truth of this, which are infinitely beyond any thing that's offered to be said or writ by Presbyterians, and other Dissenters against whom Papists seldom or never write; being they look not on them to be so much their Enemy, as those of the Episcopal Perswasion are; and Papists had never greater Scouth and Liberty, than when they prevailed. Indeed a very learned Casuist and Divine says, *That in Rome they Sing Jo Pæans upon the glad tydings they got of the Voting down Episcopacy in England; and said, that the day was now their own.* If these things be true as is given out with much probability by them, then I shall only observe with some of the Presbyterians

Dr. Sanderson.

terian Brethren in the grand Debate, anno, 1661. That a more firm Union and Consent of all such, as well in Worship as in Doctrine would greatly strengthen the Protestant Interest against all those Dangers and Temptations to which our intestine Divisions and Animosities do expose us unto, from the Common Adversary. Or if you please in the words of the same Reverend and Learned Casuist above-named, *If things still go on as they have hitherto proceeded, the Application that some have made of that passage of the 11th of St. John, Venient Romani, the Romans will come and take away both our Place and Nation, will prove but a true Prophecy, and Popery will over-run all in the end.* The Church of England then retaining Episcopal Government, and a well reformed Form of Worship in the Church after the Example of the Primitive Church, bids fairer (say they) to invite any from Romish Errors and Corruption than any Dissenter that's pleased to tell the World, that all that is Popery, which was practised in the purest times of the Church, which instead of bringing them to the Truth, and to the bosom of the Protestant Church, will rather beat them back again, and confirm and harden them in their former superstitious Errors and Practices.

Thus I have laid both Churches and their Pretensions in as even a Scale, as possibly I could, without enclining to either side, but so far as the power of Truth did sway me. And now when I have done my utmost endeavours to reconcile the two Nations in their religious concerns, I fear all is to no purpose, if there be not first a mutual Desire in both Parties to Unite, first among themselves at home, and to have all these Divisions healed by an in-

S

ward

ward principle of Love, and universal Charity. Did we lay seriously to heart the Divisions of *Reuben*, our Heart Burnings and Animosities in matters of Religion, or rather Religious Rites, which create so much disquiet to the State, as well as to the Church; and make Conscience to walk as humble Christians and peaceable Subjects, we wou'd soon fall upon a fit expedient to have our Divisions cured, and our selves brought by such healing Principles of Peace and Love, that one universal accommodation of both Nations in their Religious Concerns wou'd certainly ensue thereupon. O Divine Love! the sweet Harmony of Souls, the Musick of Angels, the Joy of God's own Heart, the very darling of his Bosom, the Source of our Happiness, and the pure Quintessence of Heaven, and that which reconciles the jarring Principles of the World.

It's not to be expected that here on Earth we can all jump in Opinion in every the least Point; and therefore there ought to be allowances made to the small Errors and peccadillo's of each side, for every side has two handles, and no side is exempted from Errors, *Dissensio de minimis et de opinionibus, non repugnat paci imperfecta quæ est in vai*, says *Aquinas*. *

* *Aquinas*
2. 2. *Quest.*
39. *Art.* 3.

Yet under these various Errours and false Colours all may maintain the same entire Conscience and Obedience to God's Law. These Diseases of the Soul, are not so deadly, as the Physicians of the Soul make them on purpose for to get themselves a name in the World: Shall we trifle away our precious time with eternal quarrellings above Modes of Worship and indifferent Ceremonies and neglect the practising the more weighty Duties of Christianity?

* *Ministers*
of the
Church.

ianity? Is not this to play the Dog in the Fable, to grasp at the Shadow and lose the Substance? Do we not thus by our Divisions frustrate the End and great Design of our Lord Jesus, who dyed (saith St. John) that he might gather into one the Children of God that are scattered abroad: As the settling of Unity among his Disciples and Followers was one of the great Ends of Christ's Death, so he leaves it as his parting Gift, and last Legacy to the Church, when he Instituted the *Sacramentum Unitatis*, the Sacrament of Unity in that Divine Chapter of St. John, *Holy Father keep through thy Name those whom thou hast given me, that they all may be one as I am one*, ver. 21. *That they also may be one in us*, and ver. 22. *And the glory which thou gavest me I have given them, that they may be one, even as we are one.* Cyprian de Unit. Eccl. John 17.

See how passionately doth our Lord pray for his Church's Peace, and shall we think that he'll hear our Prayers, * when we do not listen to his prayer made on our behalf? Shall we not value the Expressions of his dying Love, and endearing Legacy, who is himself altogether Love? And whose Gospel is the Word of Reconciliation; and whose whole design is to establish Unity and Peace among his Disciples and Followers. *My peace I leave with you; that which the World cannot give, I give unto you.* The surest way of knowing a Person's Inclination while in Life, is by what he wills and declares to be done at his Death, by his latter Will and Testament: No doubt then as this was our Lords express will at his Death, so it must needs have been his chief design all the while he lived upon Earth, that all Christians (especially the Ministers of the Gospel, as Succes-

* Pray for the peace of Jerusalem, Psal. 132.

fors to the Apostles) might take example thereby, and believe the Indispensible Obligation that's on us all, to be as one among our selves.

C H A P. III.

Concluding with a Protrepick and at Exhortation to all Protestants in Britain, particularly to the two National Churches therein.

Eph. 4. Cyprian. de Unitat. Eccl. Edit. Oxon. **S**Hall we agree in the common Belief and Profession of *one Lord, one Faith, one Baptism, one common Hope, one God and Father of all, who is above all, and through all, and in us all.*

And yet not be one, or unite among our selves, who profess the common Faith maintained by all Orthodox Protestants in the World. Quite contrary to the Apostles Injunction here, who by this multiplication of Unities hath plainly given us to understand, that the knots and ligaments whereby we are tied and fastened together, are both in their number more, and in their Nature of greater moment; than that Circumstances and Modes in Church Worship would so miserably divide us, and destroy the Peace and Unity of the Church; and therefore that *we should stand fast in one Spirit, with one mind*; as the same Apostle elsewhere exhorts.

Phil. i. 27.

To what hand shall I now turn my self in this passionate Address to my dear Countrymen, and Brethren of *Britain*; for my hearts desire is that *Israel might be saved.* Shall I use then the

Royal

Royal Psalmist's Method, when reflecting upon the Greatness and Power of God, that he could look no where in Heaven or in Earth, *but where his Almighty Hand would find him out*; that ye may have the clearer view of the helishness and damnable Consequence of Contention and Division among Christians. If we then look down to the Earth, it's ordinarily curst with Thorns and Briars, but more accursed by our Strifes and Contentions. If we look up to Heaven, that vast and glorious Extent is certainly capable to lodge and entertain us all; for *in it are many Mansions*, and those so large as to fill the most unsatiable Desire, yet there is no room there for it. No place then but Hell can give his Countenance for Enmity, Strife and Division, and yet the Rebel Son of Adam will not be able to fetch a president from thence; for even there the Fiends submit to order and command.

What words shall I now take up to enforce a true value and desire of Unity and Peace? Shall I adjure you by all the Charms of Love, those holy Incantations which alone can pull out the sting and venom out of the Serpent, and make him tame and innocent as the Dove? If I should break out into the Psalmist David's rapture, methinks it might raise our Minds into Extasies of apprehension of the high Esteem we ought to have of Unity; *Behold* (saith he) *how good and pleasant a thing it is for Brethren to dwell together * in Unity: It is like the* The He-
precious Ointment upon the Head, that ran down brew word
unto the Beard, even unto Aarons Beard, and there ☐
went down to the skirts of his Garment. Where hath an Em-
phas phasis in it.
 e're it lights, it will perfume and give a sweet
 Scent to the circumambient Air, and refreshes

the whole Neighbourhood; nay it will make us shine in the House of God like *Aaron*, being furnished with that heavenly Dew and spiritual Oil of Meekness, Gentleness, and Forbearance, and be like Priests, like *Aaron* himself at God's Altar. The *Psalmist* further adds, *That it's like the Dew of Hermon, that fell upon the Hill of Sion.* It stoops from Heaven in soft and gentle Emanations, with imperceptible Steps, but then displays it self in drops of moisture, impregnated with Life and Fertility, as the Land of *Bashan* was, says *Jeremiah*.

How can we imagine to be numbred among those that are of that one Fold, under one Shepherd, if we keep out of the Church, through humour and wilfulness, or some such other frivolous reason, which will never be received for a sufficient excuse? Have we a Harmony of Confessions in Doctrine, and may we not have the same in Worship and Church Communion, especially when the other Reformed Churches (with whom we pretend still to be in Communion) approve of it. And since both the Episcopal and Presbyterian own National and Provincial Churches, as well as single Worshipping Congregations; why ought we not then all agree in lesser Points, when we agree in the main, and in the more substantial ones, since an Union of both Churches wou'd undoubtedly overpoise the Ballance, and so weaken the Sectaries, that they wou'd not be able to lift up their Head against them, shall we take up our time, and betake ourselves to the scanning of a few Ceremonies, to be a foundation of Controversies, and a Clock for keeping up Division? Shall we still

be

be clamouring against Ceremonies, as things uncommanded by God, &c? Against whom pray do we make all this bawling? Sure not against the Church of *England*: For that Church never thought otherwise, nor commanded to teach for Doctrines the Commandments of Men, but enjoined them by Human Authority. And if any of her Doctors have published to the World any thing more, or different from this, the Church of *England* is not to be blamed for his mistake, for she hath taken care to prevent it, in that part she treats of Ceremonies, set before the *Liturgy*; in which she declares, *That for what Ceremonies they yet keep, after having purged out all Popish Superstitious ones, are only retained for Discipline and Order, which upon just cause may be altered and changed, and therefore are not to be esteemed equal with Gods Law.* Whereby we may see, that that Church is not for Will-worship, or teaching for the Doctrines of God, the Commandments of Men more than ours: Only that there is no National Church, nor publick Society of Christians, but for Decency and Order in Publick Worship, must make use of Ceremonies in General, tho' all Churches come not up to a like number, and if we admit of nothing in the Church that's left to be determined by humane Wisdom, but that all is already determined precisely in the Scriptures. The Church of *England* is so far from being against this Tenet, that they think themselves mightily obliged to Presbyterians and others that dissent from her; for to let her see in what part or portion of holy Writ, the precise method for that Order and Decency to be observed in the Church or publick Society of Christians, is set down;

Preface to
the Liturgy.

but after all, if there be none but some general Directions only for conserving Order and Unity in the Church, then so much as hath not been prescribed by God himself, must of necessity be done by such Men as God hath set over us in the Church; being it's their Office not only to care for our Souls, but also to Rule and Govern us; so the Author to the *Hebrews* tells us; *Obey them which have the Rule over you* (says he) *for they watch for your Souls, &c.*

Shall we value our selves upon being Successors to our first and purer Reformers, who no sooner got the Church brought to any Consistency and Order, than they prescribed Rules and Methods for preserving the Church therein, nay, and a Directory for Worship too. And shall we boggle at that which our pious and wise Reformers thought necessary to enjoin the Church? Do our Lives and Manners demonstrate, that we are purer and better Christians than they were? Or do we pretend to fuller Measures of the Spirit, or of clearer Revelations than they had? And if not, why so much noise, and so much Schism and Division among us, which are sins of greater hazzard than most of us are aware of.

There was a time since the year 1660, that we of *Scotland*, as well as the Presbyterians of *England*, were fain to propose and Petition for a Latitude and Toleration in matters of Religion, and to tell the Government then, That they did not quarrel at the Liturgy of the Church, and Forms of Prayer, nor yet all the Ceremonies used therein, only some few which they judged then their tender Consciences could not well digest; and if so, I beg leave to sub-

sume,

Part II. of Scotland and England.

73

sume, for the good of both Churches, and the confirmation of our present Argument of Unity, That we on the one hand should make use of so much of the *English* Liturgy as we can lawfully, and mind hereafter to use and observe so many of the Orders and Ceremonies of that Church, as we are perswaded of the innocency of. And on the other hand, That they of *England* should let the World know what Abatements they'll make of these Orders and Ceremonies, in order to the accomplishing this desirable Work, and that the Churchmen of both shall declare to their Hearers, the Resolutions of the respective Churches, in relation to these particulars; that on both sides they may be the better prepared to entertain and embrace this happy Project of an Union of the two Churches, as well as of the two Kingdoms. Shall different Communions be kept up upon the account of our being better Edified in the one than in the other? Whereas *Edification of the Body of Christ*, is by the Apostle placed in *Unity and Love*: Till we all come (saith he) in the *Unity of Faith, and of the knowledge of the Son of God, unto a perfect Man, unto the measure of the stature of the fulness of Christ*.

In fine, shall I lay before your Eyes the Advantages of Peace, which are Innumerable; the ease, the quiet, the contentment of that State, the Affluence and Plenty which it brings to all ranks and sorts of Men! For what pray do we all this while toil and labour? Is it for our selves only, or for our Posterity? No doubt but we all love the Blessed and Benign Effects of Peace, to feel them even in our own time, and to be ascertained that these halcion Days should

Author's
Opinion.

See King
Charles 2.
Declaration,
and the
Noncon-
formists
Answer.

Eph. 4. v.
12, 13.

should continue after we are gone, with our Posterity, must needs sweeten our present Toil, and increase our Diligence and Labour for them, nor know I any thing else can do it; for nothing can secure these desirable Things we now so highly value, and so much thirst after, for our Childrens attaining them, as a firm and entire Union of both Nations.

Or on the other hand, shall I describe the Horror and Confusion, the Rapine, Violence, and Blood which ordinarily ensue upon Division, Strife and Discord: Please to call your thoughts to a serious Reflection on the late Civil Wars we had in this Island, the Scars whereof yet are green, and remain in the brows of most of your Estates and Families. And shall we forget what we so lately felt, and be so enamoured with our by-past Follies, as to repeat those mad Divisions, which will most certainly have the same or worse Events, than those they formerly procured. Or shall I call your thoughts over to the Neighbouring Coasts, which we see daily plagued and harass'd by frequent Hostilities, and a long War, and I persuade my self we shall soon be convinced of the truth of these sad and dismal Consequences: Because God in his Goodness does not plague us, as he does them, with the direful Calamities of a Publick War, we shall, upon the account of some vain and frivolous Conceits, about things in themselves indifferent, play the Wanton * and the Fool so much, as now to stand in the way of so great a Blessing as this Union of both Nations would be; yet in publick War of one Nation against another, tho' the event for a time be calamitous enough, both Parties may survive the quarrel, and the
van-

* *Jeshurun.*

vanquished may become gainers at length by their Misadventure, as the Nations whom the *Greeks* and *Romans* overcame gained by that Conquest the benefit of better Laws, and greater Safety from their Conquerors, than they had formerly: Nay I dare say *England* it self wou'd not be so civilized had not the *Romans* and others since conquered them, but civil Broils and intestine Divisions, can have no Triumph, nor no Safety, for his Enemy is still in his bosom, and waits only the opportunity of taking the advantage and in the end to destroy him.

We cannot but remember how Fears and Jealousies improved in these unhappy Countries into a bloody War, and little discontents by specious pretences, divided the Kingdom against it self, so that it was a Wonder, nay a Miracle to think, that such frequent Fires, as were raised in *Britain*; hath not er'e now set us all in a Flame, and produced a general conflagration over the whole Island, and make us the prey of those that seek daily to swallow us up, *Hoc Itacus velit & magno mercentur Atride*. I need not warn you of the Diligence both the *French* and *Dutch* now use to knock this glorious Design of Union of the two Nations of *Scotland* and *England* in the head. And as our Potent Neighbour has been raised to his present greatness by the Aids afforded him from *Britain*, against his Enemies, and now our Friends An. 1672. and Allies: So he now waits to see you imploy your Arms against your selves, that thereby he may yet raise a little higher, and extend his farther Conquests to the North, under the pious pretence forsooth of extirpating the Northern

* *Monsieur*
Varilas.

thern Heresie, for so our Holy Religion is termed by that Sycophant of his, * It's upon our Divisions, heedless confusions, and he intends to build his Tower of *Babel*, in pursuance of *Machiavel's* politick, *Divide & Impera*, and repeat the *Roman* Conquest in *Britain* by the same means and methods that the first was made by the *Romans*, according to that Maxim of *Tacitus*, *Dum singuli pugnant, universi vincuntur*, while each Man's Sword is sheathed in his Neighbour, all are in a fair way to be overcome by the common Enemy.

If now we shall be false to God and to our selves, to the whole Protestant Cause and Interest, which rests on us here in *Britain*, as its greatest Bulwark and Defence at present (now that in *France*, *Hungary*, *Bohemia* and in the *Palatinate* the very name it self, besides the Cause and Interest thereof is by Persecution abolished) against the Inundation of Papal Tyranny, and Arbitrary Despotick Power, which is now ready to overflow us by intestine Divisions, to entail on Posterity the *Egyptian* Servitude of Souls and Bodies; the horrid Massacres and general Devastations which those Architects of Ruin have long thirsted to effect, and by a Providence no less than miraculous been hitherto withheld from compassing: We shall be as the most guilty and criminal, so the most despicable Nation in the World, When as did we cordially Unite our Interests both Civil and Religious, at this time, as our Civil State might vie with any of our Neighbours; so our Church in that United State as now proposed would then truly appear to the World terrible as an Army with
Banners,

Banners, and confine the Pride of the *Roman* Pontif to his first legal Patrimony, the Suburbicary Provinces, without any more insulting over other Bishops who ought to be upon the same level with him according to the expresse Judgment of St. Cyprian, *Episcopatus unus est* Lib. 3. (says he) *Episcoporum multorum concordia numerositate diffusus, ille post Dei traditionem, post con-* Epist. 2. ad Antonianexam & ubicunq; conjunctam Ecclesie unitatem, humanam conetur Ecclesiam facere. And thus we have no better Antidote against that poysonous Florentine Maxim of Divide & Impera, than the Title of this present Essay, to wit, *Vis Unita Fortior*.

It is then of the highest concern to set about this laudible Project without delay, and not any longer to dally, and trifle with our Miseries, or to skin o're and palliat our Sores: But in God's own Name let every one apply home the Remedy, search the Ulcer to the very bottom, even the Plague of his own heart, the Source and Spring of all our Troubles, which foment our Discords, and drives away our Peace, and when every one has thus swept clean before his own door, it's then and never till then that the whole Street will be made clean, is it not from our ungovernable Lusts and exorbitant Passions all our Wars and wranglings come, saith St. James, all our traiterous, heady, high-minded Persons appear on the Stage of the World, saith Paul, to disturb our *Israel*. Let us not deceive our selves with Phantomes and vain appearances, what ever form or shape Concupiscence puts on, even tho' it transform it self into an Angel of Light. It's still but untamed Lust, predominating in ambitious

ous self-designing Men : Shou'd ye happen to fall into a Club of them met now in time of Parliament, ye shou'd find all their Conversation to favour of Discord and Faction, there you'll hear all in Court under the discreet names of Papist, Jacobite, Pensioner, Courtier, and the like ; and shou'd ye leave them and drop into a Club of Tories, &c. There you'll hear the other side branded with Republican, Traytor Phantick, &c. Are there not as many Religions and Factions both in Church and State, as there are Designs and Faces to bear them out ; Nay what shall be said of the same Person that will in a little time run through several different Sects, and Parties, and all the while under the Mask and Vizor of Religion, he that hath the confidence to run this Religious Gauntlet, may soon prove a *Graccus*, a *Marinus*, or a *Sylla* in our State. In a word, to use the Scripture phrase, is not the speaking evil of Dignities and Royal Authority, the reproaching Things and Persons sacred become the ordinary Dialect of our Age. Is not all Protection and Support due from Superiors, and all submission and duty payable by Inferiors quite lost among us ? Is there any care of the Publick either Interest or Safety ? Nay all the Blessings we now and heretofore enjoyed, forgot and forfeited in the thought of somewhat which we fain wou'd have, or Jealousie that possibly we may lose somewhat that we now possess. We have great reason to bless God who in his wise Providence hath brought Peace and Order out of our Confusions, and hath set on the Throne of her Ancestors, a Princess so richly furnished with all Royal Qualities to
Reign,

Reign, and so firmly addicted to the Protestant Religion, and the Interest thereof in Europe, and who hath given such evident proofs and demonstrations of her firm adherence to the Truth in spite of all the cunning Insinuations made to her to abandon and relinquish it, that no good Protestant Subject can well deny, but rest satisfied with her good Intentions to the Protestant Church, and Interest in general, and to these Nations in their dearest and most valuable concerns as well Religious as Civil: That Her Majesty in this seasonable Juncture wou'd now so passionately desire an Union of these two Kingdoms both in Church and State; is what all wise Christians and good Subjects of whatever Communion they pretend they are, might expect. I shall then conclude this Essay as I began with the Injunction of the Apostle, Paul, writing to the Corinthians, * Now I beseech you brethren (saith he) by the Name of our Lord Jesus Christ, that ye all speak the same thing, and that there be no Divisions or Schisms among you, but that ye be perfectly joyned together in the same Mind, and in the same Judgment. † And in the words and solemn Declaration of that excellent and pious Prince King James the Sixth, who laid the first Foundation of this happy Project of an Union. I could wish (saith he) from my heart it would please God to make me one of the Members of such a general Christian Union in Religion, as laying wilfulness aside on both hands we might meet in the midst which is the Center and Perfection of all things, for if they of the Roman Church wou'd leave off and be ashamed of such new and gross Corruptions of theirs as they themselves

* 1 Cor.

1 Chap. v.

10.

† Nam a-

nimarum

consensum

sequitur

concordia

Sermonis,

says Estius

there.

selves cannot maintain, nor deny worthy Reforma-
 tion, I wou'd for my own part be content to meet
 in the Midway, that so all Novelties might be
 renounced on either side, that all sorts of Chri-
 stians might be brought into Christ's true Catholick
 Church.

Glory to God in the Highest, Peace on
 Earth, and good Will towards Man, Amen.

F I N I S.